

Comparative Analysis of State and Federal Community Development Block Grant Regulations		
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<p><b>§ 7050. General.</b></p> <p>The Federal Omnibus Budget Reconciliation Act of 1981 provides for State administration of the Federal Community Development Block Grant Nonentitlement Program. These regulations set forth the policies and procedures governing the State's management and use of these funds. In addition to these regulations, program participants must comply with Federal regulations contained in Title 24 of the Code of Federal Regulations, Part 570, Subpart I. In the event that Congress or the State Legislature add or amend any requirements concerning the use or management of these funds, grantees shall comply with such requirements upon receipt of notice from the Department of the additional requirements.</p>	<p><b>§570.480 General.</b></p> <p>(a) This subpart describes policies and procedures applicable to states that have permanently elected to receive Community Development Block Grant (CDBG) funds for distribution to units of general local government in the state's nonentitlement areas under the Housing and Community Development Act of 1974, as amended (the Act). Other subparts of part 570 are not applicable to the State CDBG program, except as expressly provided otherwise. Regulations of part 570 outside of this subpart that apply to the State CDBG program include §§570.200(j) and 570.606.</p>	<p>State code and Federal regulations are consistent.</p>
<p><b>§ 7052. Primary Objectives.</b></p> <p>The primary objectives of this program are: 1) the development and preservation of cities and counties by providing decent housing and a suitable living environment and expanding economic opportunities, principally for the targeted income group; and 2) not less than fifty-one percent (51%) of the funds made available to the Department pursuant to the program shall be utilized by the Department to make grants to eligible cities or counties for the purpose of providing or improving housing opportunities for the targeted income group or for purposes directly related to the provision or improvement of housing opportunities for the targeted income group including, but not limited to, the construction of infrastructure.</p> <p>Pursuant to Section 104(a)(1) of the Housing and Community Development Act of 1974, as amended, the Department shall annually prepare a statement of community development objectives and projected uses of funds. This statement shall be made available to the public and published, and the Department shall conduct no less than two public hearings at different locations on its contents. The statement shall be available for review for at least thirty (30) days prior to the public hearings.</p>	<p><b>§570.480 General.</b></p> <p>(f) In administering the CDBG program, a state may impose additional or more restrictive provisions on units of general local government participating in the state's program, provided that such provisions are not inconsistent with the Act or other statutory or regulatory provisions that are applicable to the State CDBG program.</p> <p>(g) States shall make CDBG program grants only to units of general local government. This restriction does not limit a state's authority to make payments to other parties for state administrative expenses and technical assistance activities authorized in section 106(d) of the Act.</p> <p>(h) Any unexpended CDBG origin year grant funds in the United States Treasury account on September 30 of the fifth Federal fiscal year after the end of the origin year grant's period of availability for obligation by HUD will be canceled. HUD may require an earlier expenditure and draw down deadline under a grant agreement.</p>	<p>Federal regulations do not require the State to set-aside 51% of the funds made available to the Department for the purpose of providing or improving housing opportunities or for purposes directly related to the provision or improvement of housing opportunities including, but not limited to, the construction of infrastructure.</p> <p>§7050-7052 does not explicitly incorporate the §570.480(g) requirement that the State may only make CDBG program grants to units of general local government; however, § 7060(a)(1) incorporates this requirement.</p> <p>§7050-7052 does not address the §570.480(h) expiring funds requirement five FFY after the end of the origin year grant's period of availability.</p> <p><i>HUD does not currently include a requirement for earlier expenditure and draw down in California's CDBG grant</i></p>

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		<i>agreements but has intimated adding conditions to the State’s 2019 grant agreement.</i>
<p><b>§ 7054. Definitions.</b></p> <p>“Act” means Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended.</p> <p>“Activity” means any single eligible undertaking carried out as part of an applicant's program under the State CDBG Program.</p> <p>“Applicant” means any eligible city or county that applies for funds pursuant to this subchapter as set forth in Section 7060.</p> <p>“CFR” is the acronym used for the Code of Federal Regulations.</p> <p>“Chief executive officer” of a unit of local government means the mayor of a city, the chairman of a county board of supervisors, or the official designated pursuant to law by the governing body of the unit of general local government who has the primary responsibility for the conduct of that unit's governmental affairs.</p> <p>“CDBG” means the Community Development Block Grant program as created by the Act.</p> <p>“Community Development Block Grant Funds,” “CDBG Funds,” or “Grant Funds” means any funds allocated by a grant agreement pursuant to this subchapter or previously funded to nonentitlement jurisdictions by HUD pursuant to their authority under the Act.</p> <p>“Department” means the State of California Department of Housing and Community Development.</p> <p>“Director” means the Director of the Department.</p> <p>“Economic Development Allocation” means the funds set aside each year for economic development pursuant to Health and Safety Code Section 50827 and Section 7062.1.</p> <p>“Economic Development”, and “ED” for the purpose of these regulations, means providing grants to non-entitlement jurisdictions to conduct CDBG eligible activities as defined in 42 USC 5305.</p> <p>“Federal regulations” means the federal regulations governing the State administration of the Community Development Block Grant nonentitlement funds set forth in the Code of Federal Regulations, Title 24, Part 570, Subchapter C, Subpart I, commencing with Section 570.480.</p>	<p><b>§570.481 Definitions.</b></p> <p>(a) Except for terms defined in applicable statutes or this subpart, the Secretary will defer to a state's definitions, provided that these definitions are explicit, reasonable and not plainly inconsistent with the Act. As used in this subpart, the following terms shall have the meaning indicated:</p> <p>(1) Act means title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).</p> <p>(2) CDBG funds means Community Development Block Grant funds, in the form of grants under this subpart including any reimbursements, program income, and loans guaranteed under section 108 of the Act.</p> <p>(3) Origin year means the specific Federal fiscal year during which the annual grant funds were appropriated.</p> <p>(b) [Reserved]</p>	<p>§ 7054 of State code and §570.481 are consistent except as otherwise noted.</p> <p>Definitions found at § 7054 of State code are consistent with the Act except as otherwise noted.</p> <p>Origin year is not defined in § 7054.</p>

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<p>“Funding” means financial assistance provided in whole or in part for any eligible activity.</p> <p>“Funding Cycle” means the annual period of time during which HUD makes funds available to the State for distribution to local governments pursuant to the Act, and includes the period of time during which the Department solicits applications and makes grant awards.</p> <p>“General” means all activities, other than Economic Development activities, eligible under 42 USC 5305 and 24 CFR 570.482. “General” as defined here can also refer to “Community Development”.</p> <p>“Grant Agreement” means the contractual arrangement between the State and the Grantee which sets forth the terms and conditions by which State CDBG funds are utilized.</p> <p>“Grantee” means a unit of general local government which has been awarded funds provided pursuant to this subchapter to carry out a program.</p> <p>“Household” means persons occupying a housing unit as the place of residence.</p> <p>“Housing Element” means the part of a city or county's General Plan as required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.</p> <p>“HUD” means the United States Department of Housing and Urban Development.</p> <p>“Infrastructure” means the physical systems such as roads, sidewalks, streetlights, water and sewer facilities which are necessary to provide basic community services.</p> <p>“Lowest Targeted Income Group” means persons and households with incomes less than 50 percent of the latest HUD estimated area median family income who are intended to be beneficiaries of the State CDBG Program.</p> <p>“Microenterprise” means a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.</p> <p>“NOFA” is the acronym used for Notice of Funding Availability. The NOFA is the document used by the Department to announce that CDBG funds are available and applications may be submitted.</p> <p>“Overpaying” means households which are paying more than 30% of their gross household income for housing costs, including utilities. Data used to document overpaying includes the percentage of renters who pay more than 30% of household income for gross rent, including utilities, and the percentage of homeowners who pay more than 30% of household income for selected housing costs, including utilities, based on the latest available U.S. Census data.</p>		<p>Although the State is not required to use the § 570.3 Definitions, consider updating “Household” to mean: all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.</p> <p>The State definition of “Lowest Targeted Income Group” is consistent with the Federal definition of “Low Income”</p>

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<p>“Over-the-Counter” or “OTC” means an allocation of Economic Development funds designated for large business assistance or infrastructure in support of business projects.</p> <p>“OMB” means the federal Office of Management and Budget.</p> <p>“Permanent job” means a full-time or full-time equivalent job created or retained by an activity funded under the Economic Development Allocation which is directly related to the expansion or retention of a business. To be considered “full-time” a job must provide at least 1,750 hours per year. Part-time jobs that provide at least 875 hours per year of employment may be aggregated to arrive at a full-time equivalent job of at least 1,750 hours per year.</p> <p>“Poverty Persons” means individuals whose incomes are below the poverty level based on the latest available U.S. Census data.</p> <p>“Program” means all of the activities funded in whole or in part included in an application which are funded under this subchapter.</p> <p>“State” means the State of California.</p> <p>“Targeted Income Group” or “TIG” means persons or households with low to moderate income (Low/Mod) as defined in 42 USC 5302(a)(20). “TIG” as defined here can also be referred to as “Low/Mod”.</p> <p>The following definitions are described in Section 7078(d)(10)</p> <p>“3rd Party Documentation”</p> <p>“Activity Specific Operator Experience”</p> <p>“Age of Housing”</p> <p>“All Funding in Place”</p> <p>“Condition of Approval for PIHNC”</p> <p>“Cooperation/Compliance in Clearing Audit or Monitoring Findings”</p> <p>“Experienced In-House Staff”</p> <p>“Extent of the Solution”</p> <p>“Homeownership Rate”</p> <p>“In-House Organizational Capacity”</p> <p>“Low-Mod Percentage”</p> <p>“Market Analysis”</p> <p>“Operator Experience / Program Readiness”</p> <p>“Overcrowding”</p> <p>“Poverty Percentage”</p> <p>“Project Approval Status”</p>		<p>The State definition of “Targeted Income Group” is consistent with the Federal definition of “Moderate Income” at 80 percent of Area Median Income.</p>

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“Program Description” “Program Guidelines” “Program Operator Qualifications” “Program Operator's Status” “Ready to Start” “Regional Housing Needs Assessment / RHNA Data” “Rental Vacancy Rate” “Reporting Points” “Seriousness of Health and Safety Threat” “Severity of the Problem” “Site Control” “Site Control of Facility for Program” “Site Control of Land for Project” “Timely Clearance of Special Conditions” “Unemployment “ “Waiting List of Pre-Screened Applicants”		
<b>§ 7056. Funding Availability.</b>  (a) Within a funding cycle, the Department may issue one or more NOFAs. (b) The NOFA shall specify, among other things, the maximum amounts of funds available, the activities eligible, the time frame for submittal of applications, the application requirements pursuant to Section 7070, the allocation of rating points pursuant to Section 7078, the matching contribution requirements pursuant to Section 7058(a)(5)(A) any prohibitions of uses of funds, the availability of administrative funds, and the general terms and conditions of funding allocations. (c) In order to comply with any set-aside established by HUD or the Department, or special allocation made by HUD, the Department may do one or more of the following: (1) Issue a special NOFA (2) Specify in each NOFA the reservation of a portion of the funds; and (3) Specify in each NOFA any waivers to requirements granted by HUD in connection with the funds.	<b>§570.485 Making of grants.</b>  (a) Required submissions. In order to receive its annual CDBG grant under this subpart, a State must submit a consolidated plan in accordance with 24 CFR part 91. That part includes requirements for the content of the consolidated plan, for the process of developing the plan, including citizen participation provisions, for the submission date, for HUD approval, and for the amendment process.  (b) Failure to make submission. The state's failure to make the submission required by paragraph (a) of this section within the prescribed deadline constitutes the state's election not to receive and distribute amounts allocated for its nonentitlement areas for the applicable fiscal year. Funds will be either:  (1) Administered by HUD pursuant to subpart F of this part if the state has not administered the program in any previous fiscal year; or	State code does not address §570.485 in terms of what the Department must do in order to receive CDBG funds from HUD, including the Consolidated Plan, Action Plans with Method of Distribution and CAPERs.

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	<p>(2) Reallocated to all states in the succeeding fiscal year according to the formula of section 106(d) of the Act, if the state administered the program in any previous year.</p> <p>(c) Approval of grant. HUD will approve a grant if the State's submissions have been made and approved in accordance with 24 CFR part 91, and the certifications required therein are satisfactory to the Secretary. The certifications will be satisfactory to the Secretary for this purpose unless the Secretary has determined pursuant to §570.493 that the State has not complied with the requirements of this subpart, or has determined that there is evidence, not directly involving the State's past performance under this program, that tends to challenge in a substantial manner the State's certification of future performance. If the Secretary makes any such determination, however, the State may be required to submit further assurances as the Secretary may deem warranted or necessary to find the grantee's certification satisfactory.</p> <p>(d) Specific conditions.—HUD may impose additional specific award conditions on States in accordance with 2 CFR 200.207.</p>	
<p><b>§ 7058. Eligible Activities.</b></p> <p>(a) Eligible Activities: Activities eligible for funding under State CDBG Program are those described in 24 CFR 570.482 and in Section 105(a) of the Housing and Community Development Act of 1974 (42 USC 5305):</p> <p>(1) Housing Assistance - Single Family Residence (1-4 units) or Multi-Family Housing (5 or more units) - Acquisition, Rehabilitation, New Construction;</p> <p>(2) Public Facilities - Acquisition, Rehabilitation, Construction;</p> <p>(3) Infrastructure and Infrastructure in Support of Housing;</p> <p>(4) Public Services - Certain costs associated with providing services including but not limited to Child Care, Health Care, and Job Training.</p> <p>(5) Planning and Technical Assistance - Costs associated with completing a planning study.</p> <p>(A) Pursuant to Health and Safety Code 50833(a) the cash match amount is five percent (5%) of the Planning and Technical Assistance grant amount applied for.</p>	<p><b>§570.482 Eligible activities.</b></p> <p>(a) General. The choice of activities on which block grant funds are expended represents the determination by state and local participants, developed in accordance with the state's program design and procedures, as to which approach or approaches will best serve these interests. The eligible activities are listed at section 105(a) of the Act.</p> <p>(b) Special assessments under the CDBG program. The following policies relate to special assessments under the CDBG program:</p> <p>(1) Public improvements initially assisted with CDBG funds. Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:</p>	<p>Each of the activity types included at § 7058(a) are eligible activities listed in the Act.</p> <p>With respect to § 7058(a)(5)(A), Federal regulations do not require a five percent match for planning grants to units of general local government.</p>

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<p>(6) Economic Development including Business Assistance and Micro Enterprise Assistance.</p> <p>[b and c continued]</p>	<p>(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. These assessments constitute program income.</p> <p>(ii) Special assessments to recover the non-CDBG portion may be made, provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if, when permitted by the state, the unit of general local government certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.</p> <p>(2) Public improvements not initially assisted with CDBG funds. CDBG funds may be used to pay special assessments levied against property when this form of assessment is used to recover the capital cost of eligible public improvements initially financed solely from sources other than CDBG funds. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments, provided that:</p> <p>(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this subpart, including labor, environmental and citizen participation requirements;</p> <p>(ii) The installation of the public improvement meets a criterion for national objectives. (See §570.483(b)(1), (c), and (d).)</p> <p>(iii) The requirements of §570.482(b)(1)(ii) are met.</p> <p>(c) Special eligibility provisions. (1) Microenterprise development activities eligible under section 105(a)(23) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.) (the Act) may be carried out either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients).</p>	<p>§570.482(b) includes special policies concerning the use of special assessments in making public improvements. § 7058 of the State code does not provide for the use of special assessments for public improvements.</p>

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	<p>(2) Provision of public services. The following activities shall not be subject to the restrictions on public services under section 105(a)(8) of the Act:</p> <p>(i) Support services provided under section 105(a)(23) of the Act, and paragraph (c) of this section;</p> <p>(ii) Services carried out under the provisions of section 105(a)(15) of the Act, that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and</p> <p>(iii) Services of any type carried out under the provisions of section 105(a)(15) of the Act pursuant to a strategy approved by a state under the provisions of §91.315(e)(2) of this title.</p> <p>(3) Environmental cleanup and economic development or redevelopment of contaminated properties. Remediation of known or suspected environmental contamination may be undertaken under the authority of section 205 of Public Law 105-276 and section 105(a)(4) of the Act. Economic development activities carried out under sections 105(a)(14), (a)(15), or (a)(17) of the Act may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination.</p> <p>(4) Housing counseling, as defined in 24 CFR 5.100, that is funded with or provided in connection with CDBG funds must be carried out in accordance with 24 CFR 5.111.</p> <p>(5) Broadband infrastructure in housing. Any new construction or substantial rehabilitation, as substantial rehabilitation is defined by 24 CFR 5.100, of a building with more than 4 rental units, for which CDBG funds are first obligated by the State's grant recipient on or after July 18, 2017, must include installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, except where the State or the State's grant recipient determines and documents the determination that:</p>	



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	<p>(i) The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;</p> <p>(ii) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or</p> <p>(iii) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.</p>	
<p><b>§ 7058. Eligible Activities.</b></p> <p>(b) Each activity must meet all benefit requirements of 24 CFR 570.483 and 24 CFR 570.484 by the end of the contract term.</p> <p>(1) At least fifty-one percent (51%) of the funds awarded shall benefit the targeted income group. No activity or portion of a program assisted by these funds may exclude from its benefits the lowest targeted income group. Individual activities shall meet one of the following three national objectives: (1) the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income; (2) aiding in the prevention or elimination of slums or blight; or (3) meeting other community development needs having a particular urgency.</p> <p>(A) For the purposes of this section, “slums” and “blight” means a blighted area or structure characterized by one or more of the following conditions: (1) the buildings and structures, used or intended to be used for living, commercial, industrial, or other purposes, which are unfit to occupy for such purposes and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, (2) high crime rate and (3) other conditions listed in <a href="#">Health and Safety Code Section 33031</a>; and (4) properties which suffer from economic dislocation, deterioration, or disuse because of factors listed in <a href="#">Health and Safety Code, Section 33031</a>. [Hyperlink added to HSC 33031]</p> <p>(B) For the purposes of this section, an activity will be considered to address the standard of urgency if the applicant certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the applicant is unable to finance the activity on its own, and that other sources of funding are not available to meet such</p>	<p><b>§570.483 Criteria for national objectives.</b></p> <p><i>[Incorporated into State code by reference at § 7058(b) and not repeated here]</i></p>	<p>24 CFR 570.483 “Criteria for national objectives” is incorporated into State code at § 7058(b).</p>

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<p>needs. For the purposes of this section, any condition which has existed longer than eighteen (18) months prior to the final filing date for applications shall not be considered to meet the standard of urgency.</p> <p>(c) Each Economic Development activity must meet all benefit requirements listed in Section 7062.1(a)(1) and (2).</p>		
<p><b>§ 7060. Eligible Applicants.</b></p> <p>(a) The applicant shall have met the following requirements when the application is submitted:</p> <p>(1) Any city or county is eligible to apply for the State CDBG Program except a city or county which participates in or is eligible to participate in the HUD administered Community Development Block Grant Entitlement Program.</p> <p>(2) The applicant shall submit all the application information required in Section 7062.1 and Section 7070 as applicable.</p> <p>(3) Beginning with the 2013 NOFA, an applicant with one or more current CDBG grant agreements signed in 2012 or later, for which the expenditure deadline established in the grant agreement(s) has not yet passed, shall be ineligible to apply for any additional CDBG funds unless the applicant has expended at least fifty percent (50%) of CDBG funds awarded in 2012 and later. The requirements of this subsection do not apply to Economic Development Over-the-Counter Funds.</p> <p>(4) The applicant must demonstrate to the satisfaction of the Department that it is in compliance with the submittal requirements of OMB A-133, Single Audit Report.</p> <p>(5) The applicant must have complied with all the Housing Element requirements listed in <a href="#">Health and Safety Code Section 50830</a>. <i>[Hyperlink added to HSC 50830]</i></p> <p>(b) Applications may be submitted by individual eligible applicants or by groups of eligible applicants in any of the following forms. Except as provided in Subsection (c) below, no eligible applicant may be included in more than one application that provides direct program benefits to that political subdivision. Applications for eligible activities outside the applicant's jurisdiction must</p>	<p><b>§570.480 General.</b></p> <p>(g) States shall make CDBG program grants only to units of general local government. This restriction does not limit a state's authority to make payments to other parties for state administrative expenses and technical assistance activities authorized in section 106(d) of the Act.</p> <p><b>§570.489 Program administrative requirements.</b></p> <p>(n) Audits. Notwithstanding any other provision of this title, audits of a State and units of general local government shall be conducted in accordance with 2 CFR part 200, subpart F, which implements the Single Audit Act. States shall develop and administer an audits management system to ensure that audits of units of general local government are conducted in accordance with 2 CFR part 200, subpart F.</p> <p><b>§570.486 Local government requirements.</b></p>	<p>§ 7060(a)(1) and (2) are consistent with Federal regulations.</p> <p>§ 7060(a)(3) prohibits applications for housing and infrastructure in situations where an applicant has not expended at least 50% of the awarded funds under a current grant agreement that has not reached its expenditure deadline. It is understood that the Department may waive this requirement under certain circumstances. State code or CDBG Program Guidelines could provide more objectively determinable criteria for such waivers.</p> <p>§ 7060(a)(4) of State code is consistent with §570.489(n) of Federal regulations.</p> <p>§ 7060(a)(5) conditions eligibility to apply for CDBG funds upon meeting other State housing planning requirements, potentially limiting the number of applicants that are eligible to apply for CDBG funds.</p> <p>§ 7060(b) requirement that no eligible applicant may be included in more than one application may negatively impact the State's expenditure rate.</p>

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<p>include a joint powers agreement with the city or county in which the eligible activity is located.</p> <p>(1) An eligible applicant may apply on its own behalf.</p> <p>(2) An eligible applicant may apply on its own behalf and in the same application on behalf of one or more other eligible applicants.</p> <p>(3) Two or more eligible applicants which share a program may submit a joint application.</p> <p>(c) In addition to General and ED activity and application limits identified in the NOFA, an eligible applicant may apply for activities in target areas within or outside of the applicant's jurisdiction when there are concentrations of Native Americans as described in Section 7062 provided the concentration is within an eligible city or county.</p>	<p>(b) Activities serving beneficiaries outside the jurisdiction of the unit of general local government. Any activity carried out by a recipient of State CDBG program funds must significantly benefit residents of the jurisdiction of the grant recipient, and the unit of general local government must determine that the activity is meeting its needs in accordance with section 106(d)(2)(D) of the Act. For an activity to significantly benefit residents of the recipient jurisdiction, the CDBG funds expended by the unit of general local government must not be unreasonably disproportionate to the benefits to its residents.</p> <p>(c) Activities located in Entitlement jurisdictions. Any activity carried out by a recipient of State CDBG program funds in entitlement jurisdictions must significantly benefit residents of the jurisdiction of the grant recipient, and the State CDBG recipient must determine that the activity is meeting its needs in accordance with section 106(d)(2)(D) of the Act. For an activity to significantly benefit residents of the recipient jurisdiction, the CDBG funds expended by the unit of general local government must not be unreasonably disproportionate to the benefits to its residents. In addition, the grant cannot be used to provide a significant benefit to the entitlement jurisdiction unless the entitlement grantee provides a meaningful contribution to the project.</p>	<p>§ 7060(b)(2) and § 7060(c) may conflict with §570.486(b) and (c) depending on the unique circumstances of the proposed project.</p>
<p><b>§ 7062. Special Allocation for Native American Communities.</b></p> <p>Pursuant to the requirements of 24 CFR, Part 1, the Department finds that there are within the State of California, communities principally comprised of low-income Native Americans not recognized as Indian Tribes as defined in Section 102(a)(17) of the Act (the Act defines Indian Tribes as any Indian tribe, band, group, and nation . . . of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)). The Department also finds that these communities have, in previous years, received the benefits of the Act primarily through the Department's successful submittal of applications on their behalf. The Department further finds that its inability to continue to apply on behalf of this minority population, caused by the legal constraints of the 1981 amendments to the Act, and the legal ineligibility of these groups to apply on their own behalf for federally- or State-administered CDBG funds, will have the effect of</p>		<p>The special allocation / set-aside for Native American Communities is effectively a function of the Method of Distribution and therefore consistent with 24 CFR Part 570. See additional notes below.</p>

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<p>depriving this minority group from participating in the State CDBG Program unless there are some affirmative measures to ensure its participation.</p> <p>(a) Pursuant to the requirements and authority of 24 CFR 1.4(c)(6)(ii) and by the direction of the State Legislature, the Department shall set aside an amount equal to one and one quarter percent (1.25%) of the total State CDBG funds to be granted to eligible applicants for identifiable geographic areas within eligible cities and counties comprised of high concentrations of Native Americans not recognized as Indian Tribes as defined in Section 102(a)(17) of the Act. For the purpose of this section, identifiable geographic areas comprised of high concentrations of Native Americans means identifiable geographic areas comprised of no less than fifty one percent (51%) Native Americans not recognized as an Indian Tribe by the Act. An identifiable geographic area may be defined by locally accepted social, historical, physical, political, or past programmatic boundaries.</p> <p>(b) An application for this set aside may be in addition to another application submitted by an eligible city or county pursuant to Section 7060(b)(1)-(5). Applications submitted under this section will be independently evaluated and ranked against other applications for this special allocation without regard to the rating of an application submitted pursuant to another section of this subchapter.</p> <p>(c) An application submitted pursuant to this section shall be in the form prescribed for applications in Section 7070 and shall comply in all other respects with this subchapter. CDBG funds utilized within the identifiable geographic areas must principally benefit residents in the targeted income groups without regard to race, religion, national origin, or sex. In the event all the set aside funds are not awarded in a funding cycle, the Department shall award the remaining funds to the highest ranked unfunded applications submitted under Section 7072.</p>		<p>§ 7062(a) Sets aside an amount equal to one and one quarter percent (1.25%) of the total State CDBG funds to be granted to eligible applicants (units of general local government) for identifiable geographic areas within eligible cities and counties comprised of high concentrations of Native Americans not recognized as Indian Tribes as defined in Section 102(a)(17) of the Act.</p> <p>§ 7062(b) clarifies that a Native American application may be submitted in addition to another application submitted by an eligible city or county. The reference to 7060(b)(1)-(5) should be clarified as § 7062(b) only contains three items (1-3).</p> <p>§ 7062(c) Indicates that if the set aside fund are not awarded in a funding cycle, they will be used for Community Development Allocation and Native American Applications.</p>
<p><b>§ 7062.1. Special Allocation for Economic Development.</b></p> <p>(a) The Department shall set aside from the total amount available from HUD, for grants to cities and counties an amount equal to thirty percent (30%) for the activities specified in this section. Applications submitted under this section must comply with all the requirements of this subchapter except where noted in this section. Economic Development Allocation funds shall be awarded</p>		<p>The Department administers the Special Allocation for Economic Development pursuant to Entitlement Program regulations found at 24 CFR Part 570 Subpart C.</p>

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<p>through the NOFA process for eligible activities listed in Section 7058 and 7062.1)(a)(1).</p> <p>(1) Activities eligible for funding under the Economic Development Allocation are those activities which are subject to the Standards for Evaluating Public Benefits set forth in subsection (f) of 24 CFR Section 570.482. Eligible activities shall also meet a national objective as specified in Section 104(b)(3) of the Act (42 U.S.C. Sec. 5304(b)(3)) and 24 CFR Section 570.483. The Department shall utilize Section 105(a) of the Act (42 U.S.C. Sec. 5305(a)), 24 CFR Section 570.482, and Subpart C of Part 570 of the federal CDBG regulations commencing with Section 570.200, for guidance in determining the eligibility of activities proposed under this section. Where CDBG funds are used for public improvements (e.g., water, sewer or road improvements) the national objective shall be met pursuant to 24 CFR Section 570.483.</p> <p>(2) In order to be eligible for funding from the Enterprise Fund as set forth in subsection (b) or the ED OTC as set forth in subsection (c), with the exception of assistance to microenterprises, a project or activity (hereinafter collectively referred to as an “activity”) shall be capable of generating sufficient public benefit relative to the amount of CDBG assistance provided as required by the Act. The Department, with respect to activities funded from the ED OTC, and Grantees with respect to activities funded with Enterprise Funds, shall utilize the federal standards specified at 24 CFR Section 570.484(f) to determine whether sufficient public benefit will be generated by a proposed activity.</p> <p>(3) Prior to the funding of any activity from either the Enterprise Fund or the ED OTC, the activity shall be underwritten to ensure that:</p> <p>(i) the activity's costs are reasonable;</p> <p>(ii) that all sources of activity financing are committed;</p> <p>(iii) that to the extent practicable, CDBG funds are not substituted for non-Federal financial support;</p> <p>(iv) that the activity is financially feasible;</p> <p>(v) that to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and</p> <p>(vi) that to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the activity. Activities shall be underwritten by the Department, with respect to activities funded from the ED OTC, and by Grantees with respect to activities funded with Enterprise Funds, utilizing the federal Guidelines and Objectives for Evaluating Project Costs and Financial Requirements set forth as Appendix A to 24 CFR Part 570.</p>	<p><b>§570.482 Eligible activities.</b></p> <p><i>[§570.482(f) Incorporated into State code by reference at § 7062.1(a) and not repeated here]</i></p> <p><i>[24 CFR Part 570 Subpart C §570.200 - §570.210 incorporated into State code pertaining to determining the eligibility of activities proposed for the Special Allocation for Economic Development; not repeated here]</i></p>	

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<p>(4) A activity funded from the Enterprise Fund or the ED OTC shall be reevaluated by the Department or grantee pursuant to subsections (a)(2) and (a)(3) of this Section if the underlying assumptions relied upon by the Department or the Enterprise Fund grant recipient in making its original funding decision materially change. A “material change”, for these purposes, means: (1) a change in the size, scope, location or public benefit of the activity; or (2) a change in the terms or the amount of the private funds (including lender's funds and equity capital) to be invested in the activity; or (3) a change in the terms or the amount of the CDBG assistance to be made available to the activity. If a material change has occurred and a reevaluation of the activity indicates that the financial elements and public benefit to be derived have also changed, then appropriate adjustments in the amount, the type of CDBG assistance and/or the terms and conditions under which that assistance has been offered shall be made to reflect the impact of the material change.</p> <p>(5) In the event that an activity funded under the Enterprise Fund or ED OTC fails to meet a federal national objective or state or federal eligibility requirement, at the Department's discretion, a Grantee may be required to repay all or a portion of the grant amount from a non-federal source of revenue, and/or may be required to return all or part of any program income received from the CDBG-assisted activity to the Department. In determining the appropriate remedy, the Department shall, at a minimum, consider the following factors:</p> <p>(1) actions taken by the Grantee to avoid the adverse circumstances in the first place;</p> <p>(2) actions taken by the Grantee to mitigate the circumstances once the problem was discovered; and</p> <p>(3) timeliness of steps taken to protect and/or recover CDBG funds. Failure by a Grantee to comply with any requirements or written instructions issued by the Department pursuant to this subsection shall be considered a failure by the Grantee to resolve any “audit findings or performance problems” and point deductions may be applied to subsequent applications at the time those applications are scored.</p> <p>(6) Funding maximums from the Economic Development Enterprise Fund Allocation and the Planning Component shall be as set forth in Health and Safety Code Section 50832 subdivision (a) and Section 50833 subdivisions (a) and (b). The Department may waive the eight hundred thousand dollar (\$800,000) and five hundred thousand dollar (\$500,000) limitations for the</p>		

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<p>Economic Development Allocation after September 1 of each year. Pursuant to Health and Safety Code 50834(c) all funds awarded to the Department from HUD, must be awarded within the Funding Cycle. If not awarded by the end of the Funding Cycle, the funds shall no longer be available for Economic Development activities. The Department may allocate funds between the Enterprise funds and OTC as set forth in the NOFA. The NOFA will announce open and close dates for the ED OTC. These dates will be in compliance with encumbrance regulations at 24 CFR 570.494 and Health &amp; Safety Code Section 50834(c).</p> <p>(7) All Economic Development Allocation funds returned, disencumbered or paid to the State in the form of program income ( “returned funds”) shall be made available to fund current-year applications to the Enterprise Fund or the ED OTC.</p> <p>(8) Grants to eligible local governments may be passed through to qualified organizations chartered to perform economic development activities.</p> <p>(9) Notwithstanding any other provision of this Section, the Director may alter the order applications are reviewed for applicants requesting funds for an urgent need such as an imminent plant closure, an emergency recognized by the State. The Director's decision to alter the order an application is reviewed shall be in writing and made part of the application file.</p> <p>(b) Enterprise Fund. Economic Development Allocation funds set aside for use pursuant to this subsection shall be known as the Enterprise Fund (Enterprise Fund). The purpose of the Enterprise Fund is to provide a source of funds to establish or enhance local revolving loan fund programs.</p> <p>(1) At least seventy (70) days prior to the due date for applications, the Department shall notify all eligible cities and counties of the anticipated level of funding for the Enterprise Fund through a Notice of Funding Availability (NOFA) and the deadline for receipt of applications. The Department shall also make available application forms and a training manual which will provide eligible applicants with a consistent format for presenting proposals, information on proposal review factors, and guidance on program policies that may affect an applicant's program design.</p> <p>(2) Two activities are eligible under the Enterprise Fund. The first is Business Assistance activities under HUD's Special Economic Development Activities under section 105(a)(14), 105(a)(15), and 105(a)(17) of the Housing and Community Development Act of 1974. The second is Micro Enterprise Assistance activities under section (105(a)(22). All Business assistance activities</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(f) Revolving funds. (1) The State may permit units of general local government to establish revolving funds to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the Treasury for revolving fund activities. Such program income is not required to be disbursed for non-revolving fund activities.</p> <p>(2) The State may establish one or more State revolving funds to distribute grants to units of general local government throughout a State or a region of the State to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of</p>	<p>§ 7062.1 of State code contemplates establishing or enhancing local revolving loan fund programs. The requirements of §570.489 should be incorporated into State code or CDBG Program Guidelines.</p>



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<p>must meet the HUD public benefit standard of job creation or retention under the Statutes covering Special Economic Development Activities referenced above. Business Assistance program activities must also meet the HUD national objective of benefit to TIG persons by mandating 51% of jobs created under public benefit standard be made available to low income persons. No public benefit requirement will apply to Micro Enterprise Assistance program activities. All Micro Enterprise Assistance programs must meet the HUD definition of micro enterprise size (five or fewer employees) and also meet the national objective of benefit to low income beneficiaries by restricting the program to low income micro business owners.</p> <p>(3) The maximum Enterprise Fund grant award to a single applicant in a program year shall not exceed \$500,000, except as specified at 7062.1(a)(6). The Director may establish a lower maximum award through each year's NOFA. A decision to reduce the maximum award shall be based upon the relative demand for Enterprise Fund grants and OTC Component funds during the previous year and the total Economic Development Allocation funds available.</p> <p>(4) Activities which are eligible for funding from a local revolving loan fund include, but are not limited to: construction loans; new equipment purchase loans; working capital loans; land acquisition loans; loan guarantees; loans for privately owned on-site improvements; grants for public off-site sewer, water and road improvements; and assistance to microenterprises.</p> <p>(5) Except for assistance to micro enterprises, the cost-per-job created or retained for a grantee's activities proposed for funding from the Enterprise Fund shall not exceed \$35,000 in CDBG funds, per job created or retained for each activity. Any activity funded under this component shall meet the standards for public benefit set forth in subsection (f) of 24 CFR Section 570.482.</p> <p>(6) Allocation Review Procedures and Evaluation Criteria.</p> <p>(A) Each eligible applicant shall submit an original and two (2) copies of its application to the Department by the application deadline specified in the NOFA. Applications submitted by mail shall be received no later than the deadline. Applications delivered to the Department must be date stamped by the Department prior to 5 P.M. on the due date.</p> <p>(B) Within thirty (30) days of receipt of an incomplete application, the Department shall return the application to the applicant with a written explanation of the reasons why the application is incomplete.</p>	<p>other program accounts) established to fund grants to units of general local government to carry out specific activities which, in turn, generate payments to the fund for additional grants to units of general local government to carry out such activities. Program income in the revolving fund must be disbursed from the fund before additional grant funds are drawn from the Treasury for payments to units of general local government which could be funded from the revolving fund.</p> <p>(3) A revolving fund established by either the State or unit of general local government shall not be directly funded or capitalized with grant funds.</p>	



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<p>(C) The Department shall complete the ranking of applications pursuant to the evaluation criteria described in Section 7078(d)(6), within eighty (80) days from the application deadline. Applicants shall be notified in writing of point scores, fund reservations and any adjustments necessary to comply with national objective or eligibility requirements. The Department may condition its award of funds in order to achieve the purposes of this subchapter and to ensure compliance with applicable State and federal requirements.</p> <p>(D) Successful applicants shall receive a reservation of Enterprise Funds equal to the approved grant amount. These reserved funds shall be held by the Department pending drawdown requests for specific eligible activities.</p> <p>(7) A Grantee's unused Enterprise Fund grant funds shall be disencumbered thirty-six months after grant agreement execution. The Department may waive this provision in writing if it determines that compelling circumstances warrant the waiver. For purposes of this subsection only, for activities of \$50,000 or less, funds shall be considered “unused” if not approved by the local loan committee for disbursement as a loan to a specified borrower; for activities over \$50,000, funds shall be considered unused if the Department has not yet received complete documentation, as determined by the Department, of the proposed borrower's eligibility.</p> <p>(c) Over-the-Counter Component. Economic Development Allocation funds not allocated to either the Enterprise Fund or the Planning Component shall be made available for award pursuant to this subsection (c), which shall be known as the “Economic Development Over-the Counter-Component” or “ED OTC”. Through the ED OTC, the Department shall provide grants to eligible cities and counties to: make loans to employers for an identified CDBG-eligible activity, provided the loan will result in the creation or retention of permanent jobs; or to construct infrastructure improvements which are necessary to accommodate the creation, expansion or retention of a business that will create or retain jobs.</p> <p>(1) Through a notice of funding availability ( “NOFA”), each program year the Department shall notify all eligible cities and counties of the anticipated level of funding for the OTC Component. OTC Component applications shall be accepted on a continuous basis.</p> <p>(2) Awards from the OTC Component to a single city or county in a single program year shall not exceed \$3,000,000, regardless of the number of applications.</p>		

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<p>(3) Notwithstanding Section 7064(c), two or more applicants may submit a joint application for an OTC Component award. The maximum award for a joint application may not exceed the limit set in 7062.1(c)(2).</p> <p>(4) All applications will be accepted on a first-come, first-served basis. The Department will use the tiebreaker process as determined in the HUD Annual Plan pursuant to the procedures set forth under Section 7078 if more applications than can be funded are received by the Department on the same day.</p> <p>(5) All application evaluation criteria are subject to Sections 7070, 7076 and 7078.</p> <p>(6) In order to be considered complete, an application shall contain the information requested in the NOFA, and such other information as necessary for the Department to evaluate the application using the points and rating factors set forth in subsection (c)(4) of this section and the following information as appropriate:</p> <p>(A) If an applicant contains a description or analysis which includes quantified information, the source of the information, and the method of computation shall be described. If the Department determines that the method of computation leads to conclusions which are inaccurate or misleading, it may, after consultation with the applicant, adjust the method of computation or the conclusions during the evaluation process.</p> <p>(B) Evidence that activities proposed for funding meet one of the national objectives specified under Section 7056(b)(3) and detailed under 24 CFR Section 570.483.</p> <p>(C) If an applicant asserts that an activity will meet the national objective of principally benefitting the TIG, the application shall include a description of the means of verification which the applicant will use to determine the number and income of those households actually benefitting from the program.</p> <p>(D) A schedule demonstrating that any new jobs that will be generated by the program will be available within 24 months of execution of the grant agreement by the Department.</p> <p>(E) For off-site public improvement activities, the application shall document the following: how the activity meets the national objective and public benefit requirements specified in 24 CFR Section 570.482(f); that the applicant has negotiated with the businesses and other beneficiaries that will be served by these improvements and obtained an appropriate funding contribution</p>		

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<p>towards the cost of the improvements; and how the activity meets the requirements of paragraphs (2) and (3) of subsection (a) of this Section.</p> <p>(7) The Department shall review applications based on order of receipt. Within thirty (30) days of receipt of an incomplete application, the Department shall notify the applicant in writing of the reasons why the application is incomplete.</p> <p>(8) Within 60 days of the date an application is determined to be complete, the Department shall review the application for compliance with state and federal program requirements and provide the applicant, in writing, the Department's decision to approve or deny funding for the application. Applications eligible for funding shall be funded in order of receipt of a complete application.</p> <p>(9) In making funding decisions, the Department shall first evaluate the application using the following factors and points as threshold criteria. To pass threshold, an application must score at least 50 points.</p> <p>Factor Points</p> <p>(A) Percent of county-wide unemployment relative to the Statewide average (A maximum of twenty-five points).</p> <p>(B) Ratio of CDBG funds per job - maximum ratio of \$35,000 per job created or retained (A maximum of fifteen points).</p> <p>(C) Ratio of private funds to CDBG funds (A maximum of fifteen points).</p> <p>(D) Quality of applicant's past performance for CDBG economic development contracts (A maximum of fifteen points).</p> <p>(E) Percent of funds allocated to applicant's general administrative costs (for this purpose, general administrative costs do not include funds budgeted for planning studies). (A maximum of ten points).</p> <p>(10) Applications which have received 50 or more points shall be reviewed for funding using the following factors:</p> <p>(A) the extent of the applicant's need for CDBG funds,</p> <p>(B) the market feasibility of the proposed activities,</p> <p>(C) the feasibility of the proposed activities under local and other regulatory requirements,</p> <p>(D) the financial feasibility of the proposed activities. (In analyzing this factor, the Department may determine that an activity is feasible even though other funding sources have not committed their funding to an activity. If the application documents the terms and conditions that will be offered by the other funding sources, then the Department may conditionally commit to funding. This commitment of funding by the Department shall be conditioned upon the final commitment from the other funding sources.),</p>		

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<p>(E) the capacity of the applicant and its borrower, subcontractors or subgrantees to manage the proposed activities,</p> <p>(F) the appropriateness of the terms proposed by the applicant, given the documented needs of the business and given the amount of public benefit in the form of job creation or job retention that will result from the CDBG-assisted activity,</p> <p>(G) the status of the ownership or control of any real estate needed for the proposed activities,</p> <p>(H) the extent to which the proposed activities involve intrastate relocation of jobs or business, and</p> <p>(I) the extent of recruitment, training and promotional opportunities for targeted income groups.</p> <p>(d) Planning and Technical Assistance Component. Through the Planning and Technical Assistance Component ( “Planning Component”), eligible cities and counties may apply for, and the Department may award, grants for economic development planning and technical assistance activities. Pursuant to Health and Safety Code 50833 no single city or county shall receive more than two grants. Two or more applicants which share a planning program may submit a joint application. The maximum award for a joint application shall not be more than the maximum grant amount as set for in the NOFA.</p> <p>(1) Application Procedures and Evaluation Criteria. Each program year, the Department shall notify all eligible cities and counties of the anticipated level of funding for the Planning Component and the earliest date for submitting applications through a notice of funding availability ( “NOFA”). The Department shall review Planning Component applications to determine if they meet minimum program eligibility and cash match requirements. Department shall notify applicants, in writing, within 60 days of receipt of a complete application of the Department's funding determination. To be eligible for funding consideration, an application must meet the following requirements:</p> <p>(A) The funding request shall contain all the information required in the NOFA and shall contain a certified resolution adopted by the governing body of the eligible jurisdiction documenting the availability of the cash match;</p> <p>(B) The funding request shall be for an eligible activity and must meet a national objective as specified in 24 CFR Section 570.483; and</p> <p>(C) If funds will be used to provide direct assistance to an identified business, the activity shall be considered to be technical assistance to a private, for-profit business and the application must include a letter from the benefitted business</p>		

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which: (i) explains why the benefitting business is unable to provide funding for the activity; and (ii) conditionally commits the business to proceeding with the activities which are the subject of the CDBG grant.		
<p><b>§ 7062.3. Special 108 Loan Guaranty Pledges.</b></p> <p>(a) Commitment of future federal allocations of CDBG Funds to the State ( “State pledges”) by the Department as collateral for federal guarantees of notes or other obligations issued by eligible cities and counties ( “loan guarantees”) pursuant to Section 108 of the Act (42 U.S.C. Sec. 5308) and 24 CFR Subchapter C, Part 570, Subpart M commencing with Section 570.700 (collectively, “Section 108”) shall be subject to the following conditions:</p> <p>(1) State pledges shall be given as collateral for loan guarantees only for loans of between \$500,000 and \$2,000,000.</p> <p>(2) The total of all outstanding State pledges at any given point in time shall not exceed \$16,000,000.</p> <p>(3) To receive a State Pledge, in addition to the eligibility requirements established by Section 108 of the Act (42 U.S.C. Sec. 5308), an activity must: meet the eligibility requirements specified at Section 7062.1 subsection (a)(2) and (a)(3); and address one of the three CDBG national objectives specified in Section 7052 and as specified in 24 CFR Section 570.483.</p> <p>(4) Applicants shall demonstrate a reliable repayment source and adequate security in the event the primary source of repayment defaults. The Department may require that the applicant city or county pledge other sources of repayment for the loan such as any local CDBG program income.</p> <p>(5) State pledges shall not be committed as security for a guaranty which guaranty is the primary source of repayment for federally-issued securities.</p> <p>(6) The proposed activity upon which the application for State pledges has been based shall be reviewed by the Department according to the HUD guidelines for financial underwriting referenced at Section 7062.1(a)(3).</p> <p>(7) Any Loan Guaranty Pledges made pursuant to Section 7062.3 are excluded from any funding limitations set forth in this section or set forth at Health and Safety Code Section 50832(a).</p> <p>(b) Application Procedures and Evaluation Criteria.</p> <p>(1) To obtain a State pledge, eligible jurisdiction shall make a formal application in writing to the Department.</p>	<p><b>Subpart M—Loan Guarantees</b></p> <p><b>§570.702 Eligible applicants.</b></p> <p>The following public entities may apply for loan guarantee assistance under this subpart.</p> <p>(a) Entitlement public entities.</p> <p>(b) Nonentitlement public entities that are assisted in the submission of applications by States that administer the CDBG program (under subpart I of this part). Such assistance shall consist, at a minimum, of the certifications required under §570.704(b)(9) (and actions pursuant thereto).</p> <p>(c) Nonentitlement public entities eligible to apply for grant assistance under subpart F of this part.</p>	<p>The State may facilitate Section 108 Loan Guarantees within the limitations established at § 7062.3, including minimum loans of \$500,000, maximum loans of \$2,000,000 and total outstanding State pledges at any given point in time of \$16,000,000. Pursuant to § 7062.3(a)(3), the eligible activities are limited to economic development.</p>

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<p>(2) Applications which have been determined by the Department to be complete shall be reviewed and a decision whether or not to issue a State pledge shall be made in writing within 60 days of the date of receipt of a complete application.</p> <p>(3) In order to be considered complete, an application shall, at a minimum, include the following:</p> <p>(A) the amount of the State pledge requested;</p> <p>(B) sufficient information for the Department to determine that all of the conditions of subsection (a) of this Section have been met; and</p> <p>(C) sufficient information to conduct the financial underwriting review required by subsection (a)(6) of this Section.</p> <p>(4) An incomplete application shall be returned to the applicant with a written explanation as to the applicant's deficiencies.</p> <p>(c) If the Department determines that the requirements of subsection (a) have been met, and that the activity underlying the application conforms to the underwriting standards of subsection (a)(6), the Department shall prepare and issue to the applicant a certification containing, at a minimum, the following statements:</p> <p>(1) the State of California, acting by and through the Department, agrees to make a pledge of future CDBG grants for which the State may become eligible in the amount of the approved application as security for a loan guaranty from HUD in an equivalent amount;</p> <p>(2) the Department possesses the legal authority to make such a pledge;</p> <p>(3) at least seventy percent (70%) of the aggregate use of CDBG funds received by the State, guaranteed loan funds, and program income during the one, two, or three years specified by the Department for its CDBG program will be for activities that benefit low and moderate income persons; and</p> <p>(4) the Department agrees to assume the responsibilities set forth in 24 CFR Section 570.710 requiring the Department to ensure that the applicant complies with all applicable federal requirements governing the use of guaranteed loan funds.</p>		
<p><b>§ 7062.5. Special Allocation for Federal Disaster or Other Emergency Supplemental Assistance.</b></p> <p>(a) The Department can administer funding provided under the Stafford Relief and Emergency Assistance Act or other emergency supplemental assistance</p>	<p><b>§570.480 General.</b></p> <p>(b) HUD's authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially-declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.</p>	<p>§ 7062.5 stipulates that the Department will administer disaster recovery funds from HUD and gives the Department the ability to do so using the CDBG regulations as a framework and allowing for Federal waivers</p>

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<p>appropriated by Congress under the Community Development Block Grant (CDBG) program. Funding from a special allocation is separate from the annual CDBG NOFA process but still subject to applicable federal statutes and regulations as well as state statutes and regulations. Any federal regulations imposed on disaster assistance or other emergency supplemental assistance will supersede any state CDBG statute or regulation, if a conflict between the two occurs. The Department may waive current state CDBG regulations that conflict with or impair the use of disaster or emergency supplemental assistance. The Department may release a special disaster or emergency supplemental NOFA, separate from the annual NOFA process.</p> <p>(b) Given a presidential declaration of disaster and the enactment of the Stafford Relief and Emergency Assistance Act or the appropriation of emergency supplemental assistance, in order to address the most serious and emergent health, safety, and general welfare needs, the Department reserves the right to invoke any and all means of expediency and funding program design, where not in conflict with any federal statute or regulations, as set forth in Section 7065.5.</p>		<p>and corresponding State actions to invoke any and all means of expediency and funding program design, where not in conflict with any federal statute or regulations.</p>
<p><b>§ 7065. Special Grant Amendments for Disasters.</b></p> <p>(a) A grantee may make a written request to the Department to amend or replace a project or activity set forth in an active grant agreement with a project or activity which would alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community.</p> <p>(b) Notwithstanding any other provision of this Subchapter, the Department shall approve such a request and amend the grant agreement accordingly if the Department makes the following findings in writing:</p> <p>(1) The grantee is located in an area for which a presidential declaration of disaster, or the Governor has proclaimed either a “state of emergency” or a “local emergency” as those terms are defined in Government Code Section 8558;</p> <p>(2) The amended or replacement project or activity is designed to alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health and welfare of the community;</p>	<p>[There is no related Federal regulation in Part 570]</p>	<p>§ 7065 allows grantees to request the ability to use funds that are part of an existing active grant agreement to alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community, provide the replacement activity is eligible and meets a national objective.</p> <p>Since these activities and associated funds are not part of a disaster recovery allocation, measures should be adopted as part of State code to ensure that the 70 percent benefit test is met over a one, two or three year certification period.</p>



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<p>(3) The amendments have necessary eligibility documentation for each activity and its associated national objective and there is no duplication of eligible costs; and</p> <p>(4) The amended or replacement project or activity is otherwise eligible for funding under this Subchapter.</p>		
<p><b>§ 7065.5. Special Disaster or Emergency Supplemental Assistance NOFAs.</b></p> <p>(a) Notwithstanding any provision in this Subchapter to the contrary, in the event of a special appropriation of emergency supplemental assistance or a presidential declaration of disaster, or the Governor proclaims either a “state of emergency” or a “local emergency” as those terms are defined in Government Code Section 8558, the Department may issue a special NOFA. The special NOFA will make CDBG program funds available to otherwise eligible state applicants located in the areas covered by the federal or state disaster proclamation, pursuant to the following special conditions:</p> <p>(1) The project or activity shall be designed to alleviate or mitigate existing conditions which pose a serious actual or impending threat to the health or welfare of the community;</p> <p>(2) The Department will review eligibility documentation for each proposed activity and its associated national objective and ensure there is no duplication of eligible costs; and</p> <p>(3) The proposed project or activity shall be otherwise eligible for funding under this Subchapter or be eligible pursuant to other HUD eligibility criteria.</p> <p>(b) In order to address the most serious, emergent health, safety, and general welfare needs, the Department Director or Acting Director may direct funding awards to designated project or activity types, or areas. These measures may include, but are not limited to:</p> <p>(1) Limiting a NOFA to a designated type of project or activity, or geographic area related to the federal or state disaster proclamation;</p> <p>(2) Awarding bonus points within a NOFA to a designated type of project or activity, or geographic area;</p> <p>(3) Reserving a portion of funds in a NOFA for a designated type of project or activity, or geographic area;</p> <p>(4) Establishing maximum award amounts per applicant, type of project, or type of activity;</p>	<p><b>§570.480 General.</b></p> <p>(b) HUD's authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially-declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.</p>	<p>§ 7065.5 provides the Department the authority to issue NOFAs and administer disaster recovery assistance from HUD. This section includes granting authority to the Director or Acting Director to alter or waive state requirements and to implement federal waivers from HUD.</p>



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<p>(5) Making funds available through an over-the-counter process, meaning the Department continuously accepts and evaluates applications until funds are exhausted.</p> <p>(c) To the extent necessary to address serious, emergent health, safety and general welfare needs, and to expedite the process of making awards, the Department Director or Acting Director may alter or waive state required criteria set forth in Sections 7060, 7062, 7062.1, and 7078. Health and Safety Code Section 50833.1(b) allows for waiving of Sections 50831 to 50833 of the Health and Safety Code. Federal requirements cannot be waived without express written authority from HUD.</p>		
<p><b>§ 7068. Administrative Cost Limitation.</b></p> <p>Grantees may expend up to seven and a half percent (7 1/2%) of the grant amount for administrative costs, provided that such amounts are justified for the type and complexity of the program, and that there are records to document these charges.</p> <p>Activity delivery costs directly related to a specific activity are not part of the general administrative costs. For example, the cost of a housing rehabilitation specialist is a rehabilitation cost and the legal costs relating to property acquisition are acquisition costs.</p> <p>Administrative costs may include, but are not limited to, the following categories:</p> <p>(a) General administrative activities. Such costs for administration include:</p> <p>(1) Salaries, wages, and related costs of the Grantee's staff engaged in general management, general legal services, accounting, and auditing.</p> <p>(2) Travel costs incurred in carrying out the general management of the program.</p> <p>(3) Administrative services performed under third-party contracts including contracts for such services as general legal services, accounting services, and audit services; and</p> <p>(4) Other costs for goods and services related to the general management of the program including rental and maintenance of office space, insurance, utilities, office supplies, and rental or purchase of office equipment.</p> <p>(b) Information and resources provided to persons in the targeted income group, and to citizen organizations participating in the planning, implementation, or assessment of the Grantee's program.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(a) Administrative and planning costs.—(1) State administrative and technical assistance costs. (i) The State is responsible for the administration of all CDBG funds. The State may use CDBG funds not to exceed \$100,000, plus 50 percent of administrative expenses incurred in excess of \$100,000. Amounts of CDBG funds used to pay administrative expenses in excess of \$100,000 shall not, subject to paragraph (a)(1)(iii) of this section, exceed the sum of 3 percent of the State's annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by units of general local government or paid to the State); and 3 percent of funds reallocated by HUD to the State.</p> <p>(ii) To pay the costs of providing technical assistance to local governments and nonprofit program recipients, a State may, subject to paragraph (a)(1)(iii) of this section, use CDBG funds received on or after January 23, 2004, in an amount not to exceed the sum of 3 percent of its annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by units of general local government or paid to the State); and 3 percent of funds reallocated by HUD to the State during each program year.</p>	<p>§ 7068 of State code establishes a 7.5 percent administration cap for Grantees. The 7.5 percent cap for Grantees is not specified in Part 570.</p>

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<p>(c) Costs incurred for environmental studies, including historic preservation clearances, and specific environmental assessments and clearances related to the CDBG Program.</p> <p>(d) Fair housing activities to facilitate compliance with the requirements of Section 7084.</p> <p>(e) Community development planning activities.</p> <p>If a cost cannot be associated with one of the above listed groups and cannot be associated with direct program costs, the Department shall upon the grantee's request make a determination of whether it is an administrative cost, a program cost, or an ineligible cost.</p>	<p>(iii) The amount of CDBG funds used to pay the sum of administrative costs in excess of \$100,000 paid pursuant to paragraph (a)(1)(i) of this section and technical assistance costs paid pursuant to paragraph (a)(1)(ii) of this section must not exceed the sum of 3 percent of the State's annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by the unit of general local government or paid to the State); and 3 percent of funds reallocated by HUD to the State.</p> <p>(iv) In calculating the amount of CDBG funds that may be used to pay State administrative expenses prior to January 23, 2004, the State may include in the calculation the following elements only to the extent that they are within the following time limitations:</p> <p>(A) \$100,000 per annual grant beginning with FY 1984 allocations;</p> <p>(B) Two percent of the sum of a State's annual grant and funds reallocated by HUD to the State within a program year, without limitation based on when such amounts were received;</p> <p>(C) Two percent of program income returned by units of general local government to States after August 21, 1985; and</p> <p>(D) Two percent of program income received and retained by units of general local government after February 11, 1991.</p> <p>(v) In regard to its administrative costs, for grants before origin year 2015, the State has the option of selecting its approach for demonstrating compliance with the requirements of paragraph (a)(1) of this section. For grants beginning with origin year 2015 grants and subsequent grants, the State must use the approach in paragraph (a)(1)(v)(A) of this section. Any State whose matching cost contributions toward State administrative expense matching requirements are in arrears must bring matching cost contributions up to the level of CDBG funds expended for such costs. A State grant may not be closed out if the State's matching cost contribution is not at least equal to the amount of CDBG funds in excess of \$100,000 expended for administration.</p>	

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	<p>The two approaches for demonstrating compliance with this paragraph (a)(1) are:</p> <p>(A) Year-to-year tracking and limitation on drawdown of funds. The State will calculate the maximum allowable amount of CDBG funds that may be used for State administrative expenses from the sum of each origin year grant, program income received during that associated program year and reallocations by HUD to the State during that associated program year. The State will draw down amounts of those funds only upon its own expenditure of an equal or greater amount of matching funds from its own resources after the expenditure of the initial \$100,000 for State administrative expenses. The State will be considered to be in compliance with the applicable requirements if the actual amount of CDBG funds spent on State administrative expenses does not exceed the maximum allowable amount, and if the amount of matching funds that the State has expended for that grant year is equal to or greater than the amount of CDBG funds in excess of \$100,000 spent during that same grant year. Under this approach, the State must demonstrate that it has paid from its own funds at least 50 percent of its administrative expenses in excess of \$100,000 by the closeout of each grant.</p> <p>(B) Cumulative accounting of administrative costs incurred by the State since its assumption of the CDBG program for grants before origin year 2015. Under this approach, the State will identify, for each grant it has received, the CDBG funds eligible to be used for State administrative expenses, as well as the minimum amount of matching funds that the State is required to contribute. The amounts will then be aggregated for all grants received. The State must keep records demonstrating the actual amount of CDBG funds from each grant received that was used for State administrative expenses, as well as matching amounts that were contributed by the State. The State will be considered to be in compliance with the applicable requirements if the aggregate of the actual amounts of CDBG funds spent on State administrative expenses does not exceed the aggregate maximum allowable amount and if the aggregate amount of matching funds that the State has expended is equal to or greater than the aggregate amount of CDBG funds in excess of \$100,000 (for each annual grant within the subject period) spent on administrative expenses during its 3- to 5-year Consolidated Planning period.</p>	

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	<p>If the State grant for any grant year within the 3- to 5-year period has been closed out, the aggregate amount of CDBG funds spent on State administrative expenses, the aggregate maximum allowable amount, the aggregate matching funds expended, and the aggregate amount of CDBG funds in excess of \$100,000 (for each annual grant within the subject period) will be reduced by amounts attributable to the grant year for which the State grant has been closed out.</p> <p>(2) The State may not charge fees of any entity for processing or considering any application for CDBG funds, or for carrying out its responsibilities under this subpart.</p> <p>(3)(i) Administrative costs are those described at §570.489(a)(1) for States and, for units of general local government, are those described at sections 105(a)(12) and (a)(13) of the Act.</p> <p>(ii) The combined expenditures by the State and its funded units of general local government for planning, management, and administrative costs shall not exceed 20 percent of the aggregate amount of the origin year grant, any origin year grant funds reallocated by HUD to the State, and the amount of any program income received during the program year.</p> <p>(iii) For origin year 2015 grants and subsequent grants, no more than 20 percent of any annual grant (excluding program income) shall be expended by the State and its funded units of general local government for planning, management, and administrative costs. In addition, the combined expenditures by the States and its unit of general local government for planning, management, and administrative costs shall not exceed 20 percent of any origin year grant funds reallocated by HUD to the State.</p> <p>(iv) Funds from a grant of any origin year may be used to pay planning and program administrative costs associated with any grant of any origin year.</p> <p>(b) Reimbursement of pre-agreement costs. The State may permit, in accordance with such procedures as the State may establish, a unit of general local government to incur costs for CDBG activities before the establishment of a formal grant relationship between the State and the unit of general local government and to charge these pre-agreement costs to the grant, provided that the activities are eligible and undertaken in accordance with the requirements of this part and 24 CFR part 58. A State may incur costs prior to</p>	

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	entering into a grant agreement with HUD and charge those pre-agreement costs to the grant, provided that the activities are eligible and are undertaken in accordance with the requirements of this part, part 58 of this title, and the citizen participation requirements of part 91 of this title.	
<p><b>§ 7070. Contents of the Application.</b></p> <p>Applications shall be submitted on forms prescribed by the Department and shall consist of the following items and any other information deemed necessary by the Department to judge the application. The specific forms and required information will be made available annually in the NOFA and accompanying application packet. This information provides the basis for the evaluation in Section 7078 and includes the assurances and agreements necessary for compliance with this subchapter. Where a description or analysis includes quantified information, the source of the information and the method of computation must be described. If the Department determines that the methods of computation are inaccurate or misleading, it may, after consultation with the applicant, adjust this information during the evaluation process.</p>	[There is no related Federal regulation in Part 570]	
<p><b>§ 7072. Submission of Community Development Allocation and Native American Applications.</b></p> <p>At least seventy (70) days prior to the due date for applications, the Department will notify all eligible cities and counties of the anticipated level of funding for the State program, and will provide them with a schedule for filing applications. Applications must be received by the closing date. Each eligible applicant shall submit two (2) copies of its application to the Department.</p>	[There is no related Federal regulation in Part 570]	
<p><b>§ 7076. Award of Funds.</b></p> <p>(a) At least 70% of all CDBG funds shall be awarded to activities to benefit Targeted Income Group households pursuant to 24 CFR 570.484</p> <p>(b) At least 51% of all CDBG funds shall be awarded to activities providing housing for Targeted Income Group households pursuant to Health and Safety Code 50828, providing or improving housing opportunities for persons and families of low or moderate income or for purposes directly related to the</p>	<p><b>§570.484 Overall benefit to low and moderate income persons.</b></p> <p>(a) General. The State must certify that, in the aggregate, not less than 70 percent of the CDBG funds received by the state during a period specified by the state, not to exceed three years, will be used for activities that benefit persons of low and moderate income. The period selected and certified to by the state shall be designated by fiscal year of annual grants, and shall be for one, two or three consecutive annual grants. The period shall be in effect</p>	<p>§ 7076(a) is consistent with §570.484.</p> <p>§ 7076(b) is not required under Part 570.</p>

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<p>provision or improvement of housing opportunities for persons and families of low or moderate income, including, but not limited to, the construction of infrastructure.</p> <p>(c) Pursuant to Health and Safety Code Section 50827, thirty percent of the total amount of CDBG funds available shall be allocated between three Economic Development activities per Section 7058 of this part:</p> <p>(1) Economic Development Enterprise Fund,  (2) Economic Development Over-the-Counter  (3) Planning and Technical Assistance</p> <p>(d) Pursuant to Section 916 of the National Affordable Housing Act of 1990, up to 10% of the total amount of CDBG funds available shall be made available for Colonia activities.</p> <p>(e) Pursuant to Health and Safety Code Section 50831, one-and-a quarter (1.25%) of the total amount of CDBG funds available shall be made available for Native American activities.</p> <p>(f) Pursuant to federal CDBG regulations, the remainder of the total amount of CDBG funds available after subtracting the activities in Section 7076 (c) (d) and, (e) shall be allocated to General activities, as listed below, with the amount available based on the actual application demand expressed as a dollar amount requested in response to the initial NOFA of a funding cycle,</p> <ol style="list-style-type: none"> <li>1. Housing activities,</li> <li>2. Public Facilities</li> <li>3. Public Improvements</li> <li>4. Public Services, not to exceed 15% of total amount of CDBG funds available, pursuant to 42 USC 5305 (a)(8).</li> </ol> <p>(g) The Department may condition its award of funds in order to achieve the purposes of this subchapter and to ensure compliance with applicable State and federal law.</p>	<p>until all included funds are expended. No CDBG funds may be included in more than one period selected, and all CDBG funds received must be included in a selected period.</p> <p>(b) Computation of 70 percent benefit. Determination that a state has carried out its certification under paragraph (a) of this section requires evidence that not less than 70 percent of the aggregate of the designated annual grant(s), any funds reallocated by HUD to the state, any distributed program income and any guaranteed loan funds under the provisions of subpart M of this part covered in the method of distribution in the final statement or statements for the designated annual grant year or years have been expended for activities meeting criteria as provided in §570.483(b) for activities benefiting low and moderate income persons. In calculating the percentage of funds expended for such activities:</p> <p>(1) All CDBG funds included in the period selected and certified to by the state shall be accounted for, except for funds used by the State, or by the units of general local government, for program administration, or for planning activities other than those which must meet a national objective under §570.483 (b)(5) or (c)(3).</p> <p>(2) Any funds expended by a state for the purpose of repayment of loans guaranteed under the provisions of subpart M of this part shall be excepted from inclusion in this calculation.</p> <p>(3) Except as provided in paragraph (b)(4) of this section, CDBG funds expended for an eligible activity meeting the criteria for activities benefiting low and moderate income persons shall count in their entirety towards meeting the 70 percent benefit to persons of low and moderate income requirement.</p> <p>(4) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under §570.483(b)(3) shall be counted for this purpose, but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons, except that the amount counted shall not exceed the amount of CDBG funds provided.</p>	<p>§ 7076(c) is not required under Part 570.</p> <p>§ 7076(e) is not required under Part 570.</p>

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<p><b>§ 7078. Evaluation Criteria.</b></p> <p>(a) Except for ED OTC activities, individual activity types will be evaluated against other activities of the same type. Where demand for a particular activity exceeds the amount of funds available, the applications for that activity shall be rated and ranked according to the rating criteria set forth in this Section. Activities will be funded in rank order, with the highest rated activities within each activity type funded first until all funds allocated for that activity, pursuant to Section 7076, have been awarded.</p> <p>(b) Applications may be submitted for Planning and Technical Assistance as the sole activity or in combination with other eligible activities. Applications submitted for Planning and Technical Assistance in combination with other eligible activities shall be eligible for funding only if at least one eligible activity is funded. The amount of funds available for Planning and Technical Assistance, as announced in the NOFA, shall be allocated between sole PTA applications and PTA applications submitted in combination with other eligible activities based on the relative amount requested. Applications will be ranked, if needed, per Section 7078(d)(7) to resolve a tie-breaker.</p> <p>(c) In the event there are insufficient funds to fund an applicant's whole activity, the applicant may be offered the amount of funds available, provided it is sufficient to complete the activity.</p> <p>(d) Applications for each eligible activity shall be evaluated on one or more of the following criteria:</p> <p>(1) Homeownership Assistance (HA) and Housing Rehabilitation (HR)</p> <table><tr><td>(A) NEED and BENEFIT:</td><td>Up to 400 points</td></tr></table> <p>The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:</p> <table><tr><td>1. Need: (250 out of 400 points)</td><td></td></tr><tr><td>i. Overcrowding (both HA and HR)</td><td>125</td></tr><tr><td>ii. Home Ownership Rate (HA) or</td><td></td></tr><tr><td>iii. Age of Housing Stock (HR)</td><td>125</td></tr><tr><td>2. Benefit (150 out of 400 points)</td><td></td></tr><tr><td>i. Low-Mod Percentage</td><td>100</td></tr></table>	(A) NEED and BENEFIT:	Up to 400 points	1. Need: (250 out of 400 points)		i. Overcrowding (both HA and HR)	125	ii. Home Ownership Rate (HA) or		iii. Age of Housing Stock (HR)	125	2. Benefit (150 out of 400 points)		i. Low-Mod Percentage	100	<p>[There is no related Federal regulation in Part 570 specifying the evaluation criteria for applications.]</p>	<p>Provided State code and / or CDBG Guidelines are consistent with the Method of Distribution published in Action Plan(s), the State is in compliance.</p> <p>The Department may want to consider adding applicants’ prior history meeting expenditure benchmarks (as applicable and determined by the Department) as part of the evaluation of capacity for each application type.</p>
(A) NEED and BENEFIT:	Up to 400 points															
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<div>ii. Poverty Percentage</div> <div>50</div>			
<div>(B) READINESS:</div> <div>Up to 300 points</div> <div>Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and sufficient funding to complete the project as applicable. Readiness points will be based on:</div> <div><div>1. Activity Specific Operator Experience</div><div>Up to 150</div></div> <div><div>2. Program Guidelines</div><div>100</div></div> <div><div>3. Waiting List of Pre-Screened Applicants</div><div>50</div></div>			
<div>(C) CAPACITY:</div> <div>Up to 200 points</div> <div>Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings.</div> <div>Capacity points based on:</div> <div><div>1. Timely Clearance of Special Conditions</div><div>60</div></div> <div><div>2. In-House Organizational Capacity for General Administration and Program Oversight</div><div>40</div></div> <div><div>3. Reporting Points (point deductions for missing reports)</div><div>70</div></div> <div><div>4. Cooperation/Compliance in Clearing Audit or Monitoring Findings</div><div>30</div></div>			
<div>(D) STATE OBJECTIVES:</div> <div>Up to 100 points</div> <div>1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.</div> <div>2. Department selection of state objectives shall be based on one or more of the following:</div> <div><div>i. Emergent circumstances such as natural disaster or economic dislocation.</div><div>ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.</div><div>iii. Imbalance in the geographic distribution of funds in prior years' awards.</div><div>iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries</div></div>			



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<p>compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.</p> <p>v. Federal funding priorities as publicly announced by HUD.</p> <p>vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.</p> <p>(2) Multi-Family Housing Acquisition, Rehabilitation or Acquisition/Rehabilitation</p> <table><tr><td>(A) NEED and BENEFIT:</td><td>Up to 400 points</td></tr></table> <p>The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:</p> <table><tr><td>1. Need: (250 out of 400 points)</td><td></td></tr><tr><td>i. Overcrowding</td><td>125</td></tr><tr><td>ii. Rental Vacancy Rate</td><td>125</td></tr><tr><td>2. Benefit (150 out of 400 points)</td><td></td></tr><tr><td>i. Low-Mod Percentage</td><td>100</td></tr><tr><td>ii. Poverty Percentage</td><td>50</td></tr></table> <p>(B) READINESS:</p> <table><tr><td>Up to 300 points</td></tr></table> <p>Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and sufficient funding to complete the project as applicable. Readiness points will be based on:</p> <table><tr><td>1. Activity Specific Operator Experience</td><td>Up to 200</td></tr><tr><td>2. All Funding In Place</td><td>75</td></tr><tr><td>3. Site Control</td><td>25</td></tr></table> <p>(C) CAPACITY:</p> <table><tr><td>Up to 200 points</td></tr></table> <p>Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings. Capacity points based on:</p> <table><tr><td>1. Timely Clearance of Special Conditions</td><td>60</td></tr></table>	(A) NEED and BENEFIT:	Up to 400 points	1. Need: (250 out of 400 points)		i. Overcrowding	125	ii. Rental Vacancy Rate	125	2. Benefit (150 out of 400 points)		i. Low-Mod Percentage	100	ii. Poverty Percentage	50	Up to 300 points	1. Activity Specific Operator Experience	Up to 200	2. All Funding In Place	75	3. Site Control	25	Up to 200 points	1. Timely Clearance of Special Conditions	60		
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2. In-House Organizational Capacity for General Administration and Program Oversight	40		
3. Reporting Points (point deductions for missing reports)	70		
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30		
(D) STATE OBJECTIVES: Up to 100 points			
1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.			
2. Department selection of state objectives shall be based on one or more of the following:			
i. Emergent circumstances such as natural disaster or economic dislocation.			
ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.			
iii. Imbalance in the geographic distribution of funds in prior years' awards.			
iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.			
v. Federal funding priorities as publicly announced by HUD.			
vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.			
(3) Public Facilities			
(A) NEED and BENEFIT: Up to 400 points			
The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:			
1. Need: (300 out of 400 points)			
i. Severity of Problem	125		
ii. Extent of Solution	125		
iii. Third Party Documentation	50		
2. Benefit (100 out of 400 points)			

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i. Low-Mod Percentage	50		
ii. Poverty Percentage	50		
(B) READINESS: Up to 300 points			
Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and sufficient funding to complete the project as applicable. Readiness points will be based on:			
1. Experienced In-House Staff and Ready to Start	Up to 100		
2. Project Approval Status	Up to 100		
3. Funding In Place	75		
4. Site Control of Land or Project	25		
(C) CAPACITY: Up to 200 points			
Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings. Capacity points based on:			
1. Timely Clearance of Special Conditions	60		
2. In-House Organizational Capacity for General Administration and Program Oversight	40		
3. Reporting Points (point deductions for missing reports)	70		
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30		
(D) STATE OBJECTIVES: Up to 100 points			
1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.			
2. Department selection of state objectives shall be based on one or more of the following:			
i. Emergent circumstances such as natural disaster or economic dislocation.			
ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.			
iii. Imbalance in the geographic distribution of funds in prior years' awards.			

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<div><div>(C) CAPACITY:</div><div>Up to 200 points</div><div>Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings. Capacity points based on:</div><div><div>1. Timely Clearance of Special Conditions</div><div>60</div></div><div><div>2. In-House Organizational Capacity for General Administration and Program Oversight</div><div>40</div></div><div><div>3. Reporting Points (point deductions for missing reports)</div><div>70</div></div><div><div>4. Cooperation/Compliance in Clearing Audit or Monitoring Findings</div><div>30</div></div></div>		
<div><div>(D) STATE OBJECTIVES:</div><div>Up to 100 points</div><div>1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.</div><div>2. Department selection of state objectives shall be based on one or more of the following:</div><div><div>i. Emergent circumstances such as natural disaster or economic dislocation.</div><div>ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.</div><div>iii. Imbalance in the geographic distribution of funds in prior years' awards.</div><div>iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work</div></div></div>		

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<p>force, or historically unsuccessful or inactive applicants compared to active, successful applicants.</p> <p>v. Federal funding priorities as publicly announced by HUD.</p> <p>vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.</p> <p>(5) Public Services</p> <table><tr><td>(A) NEED:</td><td>Up to 400 points</td></tr></table> <p>The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:</p> <table><tr><td>1. Need: (300 out of 400 points)</td><td></td></tr><tr><td>i. Severity of Problem</td><td>125</td></tr><tr><td>ii. Extent of Solution</td><td>125</td></tr><tr><td>iii. Third Party Documentation</td><td>50</td></tr><tr><td>2. Benefit (100 out of 400 points)</td><td></td></tr><tr><td>i. Low-Mod Percentage</td><td>50</td></tr><tr><td>ii. Poverty Percentage</td><td>50</td></tr></table> <p>(B) READINESS:</p> <table><tr><td>Up to 300 points</td></tr></table> <p>Readiness of the proposed activity as demonstrated by an activity implementation plan, local government approvals, design progress, and sufficient funding to complete the project as applicable. Readiness points will be based on:</p> <table><tr><td>1. Operator Experience/Program Readiness</td><td>Up to 175</td></tr><tr><td>2. Site Control of Facility for Service</td><td>125</td></tr></table> <p>(C) CAPACITY:</p> <table><tr><td>Up to 200 points</td></tr></table> <p>Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings. Capacity points based on:</p> <table><tr><td>1. Timely Clearance of Special Conditions</td><td>60</td></tr><tr><td>2. In-House Organizational Capacity for General Administration and Program Oversight</td><td>40</td></tr></table>	(A) NEED:	Up to 400 points	1. Need: (300 out of 400 points)		i. Severity of Problem	125	ii. Extent of Solution	125	iii. Third Party Documentation	50	2. Benefit (100 out of 400 points)		i. Low-Mod Percentage	50	ii. Poverty Percentage	50	Up to 300 points	1. Operator Experience/Program Readiness	Up to 175	2. Site Control of Facility for Service	125	Up to 200 points	1. Timely Clearance of Special Conditions	60	2. In-House Organizational Capacity for General Administration and Program Oversight	40		
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3. Reporting Points (point deductions for missing reports)	70		
4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30		
(D) STATE OBJECTIVES: Up to 100 points			
1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.			
2. Department selection of state objectives shall be based on one or more of the following:			
i. Emergent circumstances such as natural disaster or economic dislocation.			
ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.			
iii. Imbalance in the geographic distribution of funds in prior years' awards.			
iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.			
v. Federal funding priorities as publicly announced by HUD.			
vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.			
(6) Enterprise Fund:			
(A) NEED:	Up to 400 points		
Need will be based on one or more of the following factors: Unemployment and poverty levels in the jurisdiction, and market analysis.			
1. Need:			
i. Unemployment	100		
ii. Market Analysis	250		
2. Benefit			
i. Poverty Percentage	50		
(B) READINESS:			
Up to 300 points			

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<p>Readiness factors will include: Program description, program organization and program operator's experience and performance. Readiness points will be based on:</p> <table><tr><td>1. Program Description</td><td>25</td></tr><tr><td>2. Program Operator's Status</td><td>75</td></tr><tr><td>3. Program Operator Qualifications</td><td>200</td></tr></table> <p>(C) READINESS:</p> <table><tr><td>Up to 200 points</td></tr></table> <p>Capacity to implement the proposed activity, as demonstrated by performance, including timeliness of clearance of Special Conditions, reporting and cooperation in clearing audit and monitoring findings. Capacity points based on:</p> <table><tr><td>1. Timely Clearance of Special Conditions</td><td>60</td></tr><tr><td>2. In-House Organizational Capacity for General Administration and Program Oversight</td><td>40</td></tr><tr><td>3. Reporting Points (point deductions for missing reports)</td><td>70</td></tr><tr><td>4. Cooperation/Compliance in Clearing Audit or Monitoring Findings</td><td>30</td></tr></table> <p>(D) STATE OBJECTIVES:</p> <table><tr><td>Up to 100 points</td></tr></table> <p>1. The Department may award an application up to 100 points for addressing one or more state objectives as identified in the annual CDBG NOFA.</p> <p>2. Department selection of state objectives shall be based on one or more of the following:</p> <ul style="list-style-type: none"><li>i. Emergent circumstances such as natural disaster or economic dislocation.</li><li>ii. Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.</li><li>iii. Imbalance in the geographic distribution of funds in prior years' awards.</li><li>iv. Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.</li><li>v. Federal funding priorities as publicly announced by HUD.</li></ul>	1. Program Description	25	2. Program Operator's Status	75	3. Program Operator Qualifications	200	Up to 200 points	1. Timely Clearance of Special Conditions	60	2. In-House Organizational Capacity for General Administration and Program Oversight	40	3. Reporting Points (point deductions for missing reports)	70	4. Cooperation/Compliance in Clearing Audit or Monitoring Findings	30	Up to 100 points		
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<p>vi. Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.</p> <p>(7) Planning and Technical Assistance: Pursuant to Health and Safety Code 50832(b), PTA applications will be evaluated on a first in first served basis if there are sufficient PTA funds available, but will be ranked only when the PTA allocation is oversubscribed, (where oversubscribed refers to the situation when there is not enough PTA funds to satisfy all the Applicants who submitted their funding application on the same day.) In the event the PTA allocation is oversubscribed then a tie-breaker process will be utilized, where the tie-breaker process is based on jurisdiction-wide poverty levels, with the poverty levels being ranked in descending order (i.e. the Applicant that has the greatest poverty level will be ranked highest in a tie-breaker situation.)</p> <p>(8) Un-scored Set-Aside: Applications for Housing Assistance, Public Facilities, Public Improvements, Public Services and Enterprise Fund activities may request funding for one unrated eligible activity, up to the maximum specified in the NOFA, which shall be funded if at least one other Housing Assistance, Public Facilities, Public Improvements, Public Service or Enterprise Fund activity proposed in that application ranks high enough to be funded. An applicant may apply for either an un-scored set-aside activity or a PTA but not both.</p> <p>(9) Economic Development Over-the-Counter (ED OTC) activities will be evaluated on a first come first served basis.</p> <p>(A) Applications may apply for one or two annual funding awards. Applicants awarded two annual funding awards may not apply for Over-the-Counter Economic Development funds in the second year.</p> <p>(B) Applications will be evaluated pursuant to Section 7062.1(c)</p> <p>(C) Applications will be evaluated for compliance with HUD underwriting guidelines set forth as Appendix A to 24 CFR Part 570.</p> <p>(10) For purposes of this subsection (d), the foregoing terms shall be defined or applied as follows:</p> <p>(A) NEED and BENEFIT</p> <p>1. “3rd Party Documentation” shall mean data provided by federal or state regulatory agencies; by local agencies other than the department or division of</p>		

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<p>the jurisdiction submitting the application; or other data from a recognized non-governmental source</p> <p>2. “Age of Housing” - percentage of all housing units in a jurisdiction that were built prior to 1970.</p> <p>3. “Condition of Approval for PIHNC” shall mean the requirement that the public improvement activity be listed in the housing project's “Conditions of Approval” document issued by the jurisdiction's Planning Department.</p> <p>4. “Extent of the Solution” shall mean the extent to which funding the activity will resolve or alleviate the problem or threat.</p> <p>5. “Homeownership Rate” shall mean percentage of all housing units in a jurisdiction that are owner-occupied</p> <p>6. “Low-Mod Percentage” shall mean the percentage of all households in a jurisdiction whose income is 80% or below the County's median household income.</p> <p>7. “Market Analysis” shall mean an analysis of the economic and labor market conditions in a jurisdiction, including local employment rates, size and composition of local businesses, lending opportunities and types of lending products, etc.</p> <p>8. “Overcrowding” shall mean the percentage of all housing units in a jurisdiction that have 1.01 occupants per room or more.</p> <p>9. “Poverty Percentage” shall mean the percentage of persons in a jurisdiction whose income falls below the poverty level based on the latest available Census data.</p> <p>10. “Regional Housing Needs Assessment / RHNA Data” shall mean a regional assessment that quantifies the need for existing and future housing within each jurisdiction, whereby the communities then plan for and decide how they will address this need through the process of completing the Housing Element for their respective General Plans.</p> <p>11. “Rental Vacancy Rate” shall mean the percentage of all rental housing units that are vacant (includes units ‘for rent’ and units rented but not yet occupied)</p> <p>12. “Seriousness of Health and Safety Threat” shall mean the urgency or seriousness of the threat to the public health and safety.</p> <p>13. “Severity of the Problem” shall mean the seriousness of the threat to the public health and safety.</p> <p>14. “Unemployment” shall mean the unemployment rate for the city or county applicant as published in the most recently available State Employment Development Department's “Monthly Labor Force For Counties”.</p>		<p>The State definitions in §7078 are consistent with the Act.</p>

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<p>(B) Readiness</p> <ol style="list-style-type: none"> <li>1. “Activity Specific Operator Experience” shall mean the amount of time, if any, that the Activity Operator as set forth in the application has operated the specific activity being applied for.</li> <li>2. “All Funding In Place” shall mean the level of commitment of the full amount of funding necessary to implement and complete the proposed project.</li> <li>3. “Experienced In-House Staff” shall mean the level of work experience the jurisdictional staff has in the CDBG program.</li> <li>4. “Operator Experience / Program Readiness” shall mean the level of work experience the program operator has in the CDBG program. A program operator may be in-house staff, a subrecipient, or a contract consultant.</li> <li>5. “Project Approval Status” shall mean how close the project is to receiving all permits for construction and the Notice to Proceed.</li> <li>6. “Program Description” shall mean a brief narrative description of the proposed activity.</li> <li>7. “Program Guidelines” shall mean the rules by which a jurisdiction operates a CDBG program.</li> <li>8. “Program Operator Qualifications” shall mean the level of work experience the program operator has in the CDBG program.</li> <li>9. “Program Operator's Status” shall mean the level to which the program operator is contractually bound to the jurisdiction: by contract, subrecipient agreement, letter of intent, or not yet bound.</li> <li>10. Ready to Start” shall mean the jurisdiction's ability to document the steps already taken to clear Special Conditions and implement the activity at the time of application.</li> <li>11. “Site Control” shall mean the jurisdiction's ability to secure the use of the site or sites.</li> <li>12. “Site Control of Facility for Program” shall mean the jurisdiction's ability to secure the use of the site or sites necessary to fully implement the proposed program.</li> <li>13. “Site Control of Land for Project” shall mean the jurisdiction's ability to secure the use of the site or sites necessary to fully implement (construct) the proposed project.</li> <li>14. “Waiting List of Pre-Screened Applicants” shall mean the list maintained by the jurisdiction of local residents interested in applying for assistance within the proposed program, who have indicated they are eligible for assistance.</li> </ol> <p>(C) Capacity/Past Performance</p>		

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<p>1. "Cooperation/Compliance in Clearing Audit or Monitoring Findings" shall mean the Department's rating of a jurisdiction's efforts and compliance in clearing audit or monitoring Findings.</p> <p>2. "In-House Organizational Capacity" shall mean the level to which the jurisdiction staff experience meets the requirements of the duty statements for oversight of the CDBG program.</p> <p>3. "Reporting Points" shall mean points accumulated or deducted based on submittal status of required CDBG reports.</p> <p>4. "Timely Clearance of Special Conditions" shall mean clearance of Special Conditions within 90 days from the date of a fully executed grant agreement.</p> <p>(D) State Objectives</p> <p>1. Defined within each individual activity scoring section at (d)(1)(D); (d)(2)(D); (d)(3)(D); (d)(4)(D); (d)(5)(D) and (d)(6)(D).</p>		
<p><b>§ 7080. Citizen Participation.</b></p> <p>Each applicant shall provide opportunities for the participation of all persons who may be affected by the program, especially persons with incomes in the targeted income group. The opportunity to participate shall be available, at minimum, during the following phases of the program: program design and preparation of the application; the preparation of the annual performance report required in Section 7110; the preparation of any program amendments which constitute a reallocation of more than ten percent (10%) of the total program budget; and the preparation of any program amendments which constitute changes in policies, standards, or criteria for program implementation. A minimum of one public meeting is required at each of the program phases listed above. In addition, each applicant shall hold a minimum of one public hearing prior to submitting the application to the Department. The applicant shall provide for public notice prior to each meeting and public hearing and shall make program information available to the public prior to these meetings and hearings. Applicants shall use standard legal and other forms of notice including bilingual notice in areas with concentrations of non-English speaking minorities.</p> <p>Applicants shall invite written comments on the proposed program and shall write a reply to any comments received. This written correspondence shall be maintained as a part of the public record and copies shall be submitted to the</p>	<p><b>§570.486 Local government requirements.</b></p> <p>(a) Citizen participation requirements of a unit of general local government. Each unit of general local government shall meet the following requirements as required by the state at §91.115(e) of this title.</p> <p>(1) Provide for and encourage citizen participation, particularly by low and moderate income persons who reside in slum or blighted areas and areas in which CDBG funds are proposed to be used;</p> <p>(2) Ensure that residents will be given reasonable and timely access to local meetings, consistent with accessibility and reasonable accommodation requirements in accordance with section 504 of the Rehabilitation Act of 1973 and the regulations at 24 CFR part 8, and the Americans with Disabilities Act and the regulations at 28 CFR parts 35 and 36, as applicable, as well as information and records relating to the unit of local government's proposed and actual use of CDBG funds;</p> <p>(3) Furnish citizens information, including but not limited to:</p> <p>(i) The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and anticipated program income);</p>	<p>§ 7080 is not consistent with §570.486(a)(2). Consider adding language concerning the other Federal requirements cited at §570.486(a)(2).</p> <p>§ 7080 is not consistent with §570.486(a)(3).</p>

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<p>Department along with the application. The Department will respond within thirty (30) days to all correspondence written directly to the Department regarding an applicant's program. Applicants shall maintain a file of documents relevant to their block grant program, including proposed activities and final application, minutes of public meetings and hearings, copies of public notices and performance reviews; these documents shall be available to the public during normal working hours. Citizens shall be provided full and timely access to program records and information in a manner consistent with applicable laws regarding personal privacy and obligations of confidentiality.</p>	<p>(ii) The range of activities that may be undertaken with the CDBG funds;</p> <p>(iii) The estimated amount of the CDBG funds proposed to be used for activities that will meet the national objective of benefit to low and moderate income persons; and</p> <p>(iv) The proposed CDBG activities likely to result in displacement and the unit of general local government's antidisplacement and relocation plans required under §570.488.</p> <p>(4) Provide technical assistance to groups that are representative of persons of low- and moderate-income that request assistance in developing proposals (including proposed strategies and actions to affirmatively further fair housing) in accordance with the procedures developed by the State. Such assistance need not include providing funds to such groups;</p> <p>(5) Provide for a minimum of two public hearings, each at a different stage of the program, for the purpose of obtaining residents' views and responding to proposals and questions. Together the hearings must cover community development and housing needs (including affirmatively furthering fair housing), development of proposed activities, and a review of program performance. The public hearings to cover community development and housing needs must be held before submission of an application to the State. There must be reasonable notice of the hearings and they must be held at times and accessible locations convenient to potential or actual beneficiaries, with accommodations for persons with disabilities. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate;</p> <p>(6) Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the unit of general local government's application to the state. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state.</p>	<p>§ 7080 is not consistent with §570.486(a)(4).</p> <p>§ 7080 is not consistent with §570.486(a)(5) requirement to hold meetings at times and accessible locations convenient to potential or actual beneficiaries, with accommodations for persons with disabilities.</p>

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	(7) Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.	§ 7080 is not consistent with §570.486(a)(7) requirement to provide a method for complaints and grievances.
<p><b>§ 7082. Environmental Reviews.</b></p> <p>The grantee shall assume the responsibility for environmental review, decision-making and all other actions required under the California Environmental Quality Act of 1970 (CEQA), Public Resources Code 21000 et seq.; and the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq. In order to ensure compliance with NEPA, grantees shall assume the responsibilities for environmental review and decision making following the procedures for “recipients” of Block Grant funds as set forth in 24 CFR, Part 58, entitled “Environmental Review Procedures for Title I Community Development Block Grant Programs.” The Department shall assume the responsibilities set forth in Subpart C of 24 CFR, Part 58 and fulfill the State's role under Subpart J of 24 CFR, Part 58.</p>	[State code incorporates Subpart C of 24 CFR, Part 58 by reference.]	§ 7082 incorporates the environmental review requirements by reference.
<p><b>§ 7084. Nondiscrimination.</b></p> <p>(a) Discrimination prohibited. No person shall, on the grounds of race, color, religion, ancestry, marital status, physical handicap, national origin, sex, or any other arbitrary basis be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with CDBG funds made available pursuant to this subchapter. All grantees shall comply with the requirements contained in 24 CFR 570.601, 570.602, 570.607, 570.506(g).</p>	<p><b>§570.480 General.</b></p> <p>(e) Religious organizations are eligible to participate under the State CDBG Program as provided in §570.200(j).</p> <p><b>§570.200</b></p> <p>(j) Equal participation of faith-based organizations. The HUD program requirements in §5.109 of this title apply to the CDBG program, including the requirements regarding disposition and change in use of real property by a faith-based organization.</p>	Title 25 §7050-7126 does not explicitly indicate that Religious organizations are eligible to participate under the State CDBG Program as subrecipients to units of general local government.
<p><b>§ 7086. Relocation and Acquisition.</b></p> <p>The provisions of the Uniform Relocation Act, as amended, 49 CFR Part 24, and 42 U.S.C. 5304(d) shall be followed where any acquisition of real property is carried out by a grantee and assisted in whole or in part by funds allocated pursuant to this subchapter. In addition, where the rehabilitation of residential rental units results in increased rents for members of the targeted income</p>	<p><b>§570.488 Displacement, relocation, acquisition, and replacement of housing.</b></p> <p>The requirements for States and state recipients with regard to the displacement, relocation, acquisition, and replacement of housing are in §570.606 and 24 CFR part 42.</p>	§ 7086 does not incorporate or reference §570.606 as required pursuant to §570.480(a).

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group, the grantee shall also comply with the requirements of the above-cited sections of federal law. Relocation expenses which may, by law, be paid are eligible expenses for use of CDBG funds.	<p><b>§570.606 Displacement, relocation, acquisition, and replacement of housing.</b></p> <p>(a) General policy for minimizing displacement. Consistent with the other goals and objectives of this part, grantees (or States or state recipients, as applicable) shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of activities assisted under this part.</p> <p>(b) Relocation assistance for displaced persons at URA levels. (1) A displaced person shall be provided with relocation assistance at the levels described in, and in accordance with the requirements of 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).</p> <p>(2) Displaced person. (i) For purposes of paragraph (b) of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition, or acquisition for an activity assisted under this part. A permanent, involuntary move for an assisted activity includes a permanent move from real property that is made:</p> <p>(A) After notice by the grantee (or the state recipient, if applicable) to move permanently from the property, if the move occurs after the initial official submission to HUD (or the State, as applicable) for grant, loan, or loan guarantee funds under this part that are later provided or granted.</p> <p>(B) After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity.</p> <p>(C) Before the date described in paragraph (b)(2)(i)(A) or (B) of this section, if either HUD or the grantee (or State, as applicable) determines that the</p>	



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	<p>displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity.</p> <p>(D) After the “initiation of negotiations” if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:</p> <p>(1) The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon the completion of the project, including a monthly rent that does not exceed the greater of the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household's average monthly gross income; or</p> <p>(2) The tenant is required to relocate temporarily for the activity but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or</p> <p>(3) The tenant is required to move to another unit in the building/complex, but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.</p> <p>(ii) Notwithstanding the provisions of paragraph (b)(2)(i) of this section, the term “displaced person-” does not include:</p> <p>(A) A person who is evicted for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the grantee (or State or state recipient, as applicable) must determine that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance under this section;</p> <p>(B) A person who moves into the property after the date of the notice described in paragraph (b)(2)(i)(A) or (B) of this section, but who received a written notice of the expected displacement before occupancy.</p>	

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	<p>(C) A person who is not displaced as described in 49 CFR 24.2(g)(2).</p> <p>(D) A person who the grantee (or State, as applicable) determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, HUD must concur in that determination.</p> <p>(iii) A grantee (or State or state recipient, as applicable) may, at any time, request HUD to determine whether a person is a displaced person under this section.</p> <p>(3) Initiation of negotiations. For purposes of determining the type of replacement housing assistance to be provided under paragraph (b) of this section, if the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of real property, the term “initiation of negotiations” means the execution of the grant or loan agreement between the grantee (or State or state recipient, as applicable) and the person owning or controlling the real property.</p> <p>(c) Residential antidisplacement and relocation assistance plan. The grantee shall comply with the requirements of 24 CFR part 42, subpart B.</p> <p>(d) Optional relocation assistance. Under section 105(a)(11) of the Act, the grantee may provide (or the State may permit the state recipient to provide, as applicable) relocation payments and other relocation assistance to persons displaced by activities that are not subject to paragraph (b) or (c) of this section. The grantee may also provide (or the State may also permit the state recipient to provide, as applicable) relocation assistance to persons receiving assistance under paragraphs (b) or (c) of this section at levels in excess of those required by these paragraphs. Unless such assistance is provided under State or local law, the grantee (or state recipient, as applicable) shall provide such assistance only upon the basis of a written determination that the assistance is appropriate (see, e.g., 24 CFR 570.201(i), as applicable). The grantee (or state recipient, as applicable) must adopt a written policy available to the public that describes the relocation assistance that the grantee (or state recipient, as applicable) has elected to provide and that</p>	

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	<p>provides for equal relocation assistance within each class of displaced persons.</p> <p>(e) Acquisition of real property. The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B.</p> <p>(f) Appeals. If a person disagrees with the determination of the grantee (or the state recipient, as applicable) concerning the person's eligibility for, or the amount of, a relocation payment under this section, the person may file a written appeal of that determination with the grantee (or state recipient, as applicable). The appeal procedures to be followed are described in 49 CFR 24.10. In addition, a low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the grantee's decision to the HUD Field Office. For purposes of the State CDBG program, a low- or moderate-income household may file a written request for review of the state recipient's decision with the State.</p> <p>(g) Responsibility of grantee or State. (1) The grantee (or State, if applicable) is responsible for ensuring compliance with the requirements of this section, notwithstanding any third party's contractual obligation to the grantee to comply with the provisions of this section. For purposes of the State CDBG program, the State shall require state recipients to certify that they will comply with the requirements of this section.</p> <p>(2) The cost of assistance required under this section may be paid from local public funds, funds provided under this part, or funds available from other sources.</p> <p>(3) The grantee (or State and state recipient, as applicable) must maintain records in sufficient detail to demonstrate compliance with the provisions of this section.</p>	
§ 7088. Labor Standards.	§570.487 Other applicable laws and related program requirements.	§ 7088 does not address volunteer labor.

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<p>(a) All laborers and mechanics employed by contactors or subcontractors on construction work assisted pursuant to this subchapter shall be paid by wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276(a) to 276(a)(5)), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), and the contractors and subcontractors shall comply with all regulations issued pursuant to these Acts and with other applicable federal laws and regulations pertaining to labor standards. This section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families. The Secretary of Labor has, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 133z-15), and Section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c))</p> <p>(b) Grantees shall also assume all responsibilities for compliance with the provisions of Cal. Labor Code, Section 1720 et seq., regarding State labor standards compliance for Public Works as defined in Cal. Labor Code, Section 1720.</p>	<p>(a) General. Certain statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms...</p> <p><b>Section 110 of the Act:</b></p> <p>a. All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a--276a-5): Provided, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.</p> <p>b. Subsection (a) of this section shall not apply to any individual that:</p> <ol style="list-style-type: none"> <li>1. performs services for which the individual volunteered;</li> <li>2. does not receive compensation for such services; or</li> <li>3. is paid expenses, reasonable benefits, or a nominal fee for such services; and is not otherwise employed at any time in the construction work.</li> </ol>	<p>There is an inconsistency in the way that § 7088 addresses residential property and the way that Section 110 of the Act addresses residential property. § 7088 indicates: “This section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families.” Section 110 of the Act indicates: “this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.”</p>
<p><b>§ 7090. Architectural Barriers Act of 1968.</b></p> <p>Every building or facility, other than a privately-owned residential structure, designed, constructed, or altered with funds made available pursuant to this subchapter, shall comply with the requirements of 24 CFR Parts 40 and 41 issued pursuant to the Architectural Barriers Act of 1968 (42 U.S.C. 4151).</p>	<p><b>§570.487 Other applicable laws and related program requirements.</b></p> <p>(e) Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally-funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this subpart after November 21, 1996 and that meets the definition of residential structure as defined in 24 CFR 40.2, or the definition of building as defined in 41 CFR 101-19.602(a), is subject to the requirements of the Architectural Barriers Act of 1968 and shall comply with the Uniform Federal Accessibility Standards. For general type buildings, these standards are in appendix A to</p>	<p>§ 7090 is not fully consistent with §570.487.</p>

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	41 CFR part 101-19.6. For residential structures, these standards are available from the Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability Rights Division, Room 5240, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-2333 (voice) or (202) 708-1734 (TTY) (these are not toll-free numbers).	
<p><b>§ 7092. Hatch Act.</b></p> <p>Neither the Community Development Block Grant Program nor the funds provided therefor, nor the personnel employed in the administration of the program shall in any way or to any extent engage in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code.</p>	<p><b>From CDBG Entitlement Regulations: §570.207 Ineligible activities</b></p> <p>(a) The following activities may not be assisted with CDBG funds:</p> <p>(3) Political activities. CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.</p>	<p>The State prohibits the use of CDBG funds for political activities in § 7092 in a manner generally consistent with HUD’s prohibition for Entitlements at §570.207(a)(3). Consider incorporating §570.207(a)(3) by reference.</p>
<p><b>§ 7094. Lead-based Paint Poisoning Prevention Act.</b></p> <p>CDBG grantees must comply with HUD's Lead-Based Paint Regulations (24 CFR, Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 et seq. ) requiring prohibition of the use of lead-based paint, whenever funding awarded pursuant to this subchapter is used directly or indirectly by the grantee for construction, rehabilitation, or modernization of residential structures, elimination of immediate lead-based paint hazards in residential structures assisted pursuant to this subchapter, or the notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1950 and funded under the CDBG program.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(c) Lead-Based Paint Poisoning Prevention Act. States shall devise, adopt and carry out procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title.</p>	<p>§ 7094 should be reviewed and updated to ensure compliance with both LBPPPA and the Residential Lead Based Paint Hazard Reduction Act. Alternatively, reference only 24 CFR Part 35 subparts A, B, J, K, and R in the State code.</p> <p><i>[What is the significance of residential structures constructed prior to 1950? There is no reference to this benchmark in Part 35.]</i></p>

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<p><b>§ 7096. Use of Debarred, Suspended, or Ineligible Contractors or Subrecipients.</b></p> <p>CDBG funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage in the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR, Part 24. “Subrecipients” includes eligible entities under 24 CFR Part 570.204(a)(2) or private entities as described under 24 CFR 570.202(c)(1).</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(l) Debarment and suspension. The requirements in 2 CFR part 2424 are applicable. CDBG funds may not be provided to excluded or disqualified persons.</p>	<p>§ 7096 should be updated to reflect the applicability of the requirements at 2 CFR part 2424.</p>
<p><b>§ 7097. Grant Agreements.</b></p> <p>(a) Applicants that received award letters will later receive a Grant Agreement, pursuant to 24 CFR 570.503 to be executed by both the local authorized representative and the Department.</p> <p>(b) The Grant Agreement shall reserve monies from the CDBG allocation in an amount approved for funding by the Department pursuant to Section 7076.</p> <p>(c) The Grant Agreement shall include all items required in 24 CFR 570.503, 24 CFR Part 85, OMB Circular A-87, OMB Circular A-133, and all applicable sections in Articles 3 and 4 of this Subchapter.</p>	<p><i>[The State code currently incorporates 24 CFR 570.503 by reference, which then incorporates 24 CFR 570.502 by reference. Both are printed below.]</i></p> <p><b>§570.503 Agreements with subrecipients.</b></p> <p>(a) Before disbursing any CDBG funds to a subrecipient, the recipient shall sign a written agreement with the subrecipient. The agreement shall remain in effect during any period that the subrecipient has control over CDBG funds, including program income.</p> <p>(b) At a minimum, the written agreement with the subrecipient shall include provisions concerning the following items:</p> <p>(1) Statement of work. The agreement shall include a description of the work to be performed, a schedule for completing the work, and a budget. These items shall be in sufficient detail to provide a sound basis for the recipient effectively to monitor performance under the agreement.</p> <p>(2) Records and reports. The recipient shall specify in the agreement the particular records the subrecipient must maintain and the particular reports the subrecipient must submit in order to assist the recipient in meeting its recordkeeping and reporting requirements.</p> <p>(3) Program income. The agreement shall include the program income requirements set forth in §570.504(c). The agreement shall also specify that, at the end of the program year, the grantee may require remittance of all or part of any program income balances (including investments thereof) held by</p>	<p>Federal regulations do not require that the grant agreements executed between the State and units of general local government must contain the exact provisions specified in §570.503. Consider updating § 7097 to reflect requirements for grant agreements consistent with State CDBG program regulations as informed by 24 CFR Part 570 Subpart I and applicable sections of 2 CFR Part 200.</p> <p>§570.503(a)(3) conflicts with the §570.489(e) regulation that is applicable to the State and units of general local government.</p>

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	<p>the subrecipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs).</p> <p>(4) Uniform requirements. The agreement shall require the subrecipient to comply with applicable uniform requirements, as described in §570.502.</p> <p>(5) Other program requirements. The agreement shall require the subrecipient to carry out each activity in compliance with all Federal laws and regulations described in subpart K of these regulations, except that:</p> <p>(i) The subrecipient does not assume the recipient's environmental responsibilities described at §570.604; and</p> <p>(ii) The subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR part 52.</p> <p>(6) Suspension and termination. The agreement shall set forth remedies for noncompliance and provisions on termination in accordance with 2 CFR part 200, subpart D.</p> <p>(7) Reversion of assets. The agreement shall specify that upon its expiration the subrecipient shall transfer to the recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. It shall also include provisions designed to ensure that any real property under the subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the subrecipient in the form of a loan) in excess of \$25,000 is either:</p> <p>(i) Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the recipient; or</p> <p>(ii) Not used in accordance with paragraph (b)(7)(i) of this section, in which event the subrecipient shall pay to the recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or</p>	<p>The uniform administrative requirements applicable to the State and units of general local government differ from those described in §570.502. For example, the State may determine its own procurement requirements as discussed in the comments for §7120 below.</p> <p>§570.502(b)(5)(ii) contradicts §7082.</p> <p>The reversion of assets for State CDBG is governed by §570.489.</p>



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	<p>improvement to, the property. The payment is program income to the recipient. (No payment is required after the period of time specified in paragraph (b)(7)(i) of this section.)</p> <p><b>§570.502 Applicability of uniform administrative requirements.</b></p> <p>(a) Grantees and subrecipients shall comply with 2 CFR part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, except that:</p> <p>(1) Section 200.305 “Payment” is modified for lump sum drawdown for financing of property rehabilitation activities, in accordance with §570.513.</p> <p>(2) Section 200.306 “Cost sharing or matching” does not apply.</p> <p>(3) Section 200.307 “Program income” does not apply. Program income is governed by §570.504.</p> <p>(4) Section 200.308 “Revisions of budget and program plans” does not apply.</p> <p>(5) Section 200.311 “Real property” does not apply, except as provided in §570.200(j). Real property is governed by §570.505.</p> <p>(6) Section 200.313 “Equipment” applies, except that when the equipment is sold, the proceeds shall be program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient.</p> <p>(7) Section 200.333 “Retention requirements for records” applies except that:</p> <p>(i) For recipients:</p> <p>(A) The period shall be 4 years from the date of execution of the closeout agreement for a grant, as further described in this part;</p> <p>(B) Records for individual activities subject to the reversion of assets provisions at §570.503(b)(7) or the change of use provisions at §570.505</p>	<p>The applicability of uniform administrative requirements to units of general local government should be in accordance with 24 CFR Part 570 Subpart I rather than §570.502 to avoid conflicts. Any additional sections that the Department wants to make applicable to grantees should be incorporated fully into State code or CDBG Program Guidelines to maintain clarity.</p> <p>The State CDBG program is subject to only portions of 2 CFR Part 200, as further specified by program regulations in 24 CFR Part 570:</p> <ul style="list-style-type: none"> <li>- <b>Subpart A</b>, Acronyms and Definitions (2 CFR 200.0 through 200.99): Applicable;</li> <li>- <b>Subpart B</b>, General Provisions (2 CFR 200.100 through 200.113): Applicable;</li> <li>- <b>Subpart C</b>, Pre-Federal Award Requirements and Contents of Federal Awards (2 CFR 200.200 through 200.213): Not applicable, UNLESS the State has chosen to apply it;</li> <li>- <b>Subpart D</b>, Post Federal Award Requirements (2 CFR 200.300 through 200.345): Partially Applicable. Only 24 CFR 200.330, 331, 332 and 343 are directly applicable. See 24 CFR 570.489(m) and (o). The remainder of Subpart D is only applicable if the State has chosen to adopt it. States may adopt Subpart D as part of the</li> </ul>



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	<p>must be maintained for 3 years after those provisions no longer apply to the activity;</p> <p>(C) Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained for 3 years after the receivables or liabilities have been satisfied.</p> <p>(ii) For subrecipients:</p> <p>(A) The retention period for individual CDBG activities shall be the longer of 3 years after the expiration or termination of the subrecipient agreement under §570.503, or 3 years after the submission of the annual performance and evaluation report, as prescribed in §91.520 of this title, in which the specific activity is reported on for the final time;</p> <p>(B) Records for individual activities subject to the reversion of assets provisions at §570.503(b)(7) or change of use provisions at §570.505 must be maintained for as long as those provisions continue to apply to the activity; and</p> <p>(C) Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied.</p> <p>(8) Section 200.343 “Closeout” applies to closeout of subrecipients.</p>	<p>requirements to have fiscal controls and accounting procedures pursuant to 24 CFR 570.489(d) and the requirements for procurement policies and procedures pursuant to 24 CFR 570.489(g);</p> <ul style="list-style-type: none"><li>- <b>Subpart E</b>, Cost Principles (2 CFR 200.400 through 475): applicable with modifications. Subpart E is made applicable by 24 CFR 570.489(p) which also states that all cost items that require Federal agency approval are allowable without prior approval of HUD, except for the following: Depreciation methods for fixed assets; Fines, penalties, damages, and other settlements; Costs of housing, housing allowances, and personal living expenses; and Organization costs. Additionally, pursuant to 24 CFR 570.489(a)(3)(iv), funds from any State CDBG grants may be used to pay planning and program administrative costs associated with any other State CDBG grant; therefore, planning and administration costs are not required to be allocated to a particular CDBG grant; and</li><li>- <b>Subpart F</b>, Audit Requirements (2 CFR 200.500 through 512): Applicable.</li></ul>

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<p><b>§ 7098. Cash Depositories.</b></p> <p>Grantees are not required to establish physical separation of cash depositories for State CDBG funds. Grantees shall establish and maintain all accounts in accordance with 24 CFR 570.489(d)(2)(iii) and 24 CFR 85.20 et. seq.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(d) Fiscal controls and accounting procedures.</p> <p>(1) A State shall have fiscal and administrative requirements for expending and accounting for all funds received under this subpart. These requirements must be available for Federal inspection and must:</p> <p>(i) Be sufficiently specific to ensure that funds received under this subpart are used in compliance with all applicable statutory and regulatory provisions and the terms and conditions of the award:</p> <p>(ii) Ensure that funds received under this subpart are only spent for reasonable and necessary costs of operating programs under this subpart; and</p> <p>(iii) Ensure that funds received under this subpart are not used for general expenses required to carry out other responsibilities of State and local governments.</p> <p>(2) A State may satisfy this requirement by:</p> <p>(i) Using fiscal and administrative requirements applicable to the use of its own funds;</p> <p>(ii) Adopting new fiscal and administrative requirements; or</p> <p>(iii) Applying the provisions in 2 CFR part 200.</p> <p>(A) A State that opts to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200 must comply with the requirements therein.</p> <p>(B) A State that opts to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200 must also ensure that recipients of the State's CDBG funds comply with 2 CFR part 200.</p>	<p>§ 7098 should be updated for consistency with §570.489(d).</p> <p>If State code incorporates the requirements of 2 CFR Part 200, HUD will require the State to monitor its grantees for compliance with those requirements.</p>
<p><b>§ 7100. Bonding.</b></p> <p>Grantees shall comply with all bonding requirements described in 24 CFR 85.36(h).</p>	<p>[<i>Outdated Federal regulations.</i>]</p>	<p>§ 7100 should be updated to reference 2 CFR 200.325.</p>

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<p><b>§ 7102. Retention and Custodial Requirements for Records.</b></p> <p>The grantee shall retain financial records, supporting documents, statistical records, and all other records pertinent to a grant in accordance with 24 CFR 570.502(a)(16) and 24 CFR 85.42.</p>	<p><b>§570.490 Recordkeeping requirements.</b></p> <p>(a) State records. (1) The State shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the State's administration of CDBG funds under §570.493. The content of records maintained by the State shall be as jointly agreed upon by HUD and the States and sufficient to enable HUD to make the determinations described at §570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include documentation related to the State's AFH, as described in 24 CFR part 5, subpart A (§5.168). The records shall also permit audit of the States in accordance with 2 CFR 200, subpart F.</p> <p>(2) The state shall keep records to document its funding decisions reached under the method of distribution described in 24 CFR 91.320(j)(1), including all the criteria used to select applications from local governments for funding and the relative importance of the criteria (if applicable), regardless of the organizational level at which final funding decisions are made, so that they can be reviewed by HUD, the Inspector General, the Government Accountability Office, and citizens pursuant to the requirements of §570.490(c).</p> <p>(3) Integrated Disbursement and Information System (IDIS). The state shall make entries into IDIS in a form prescribed by HUD to accurately capture the state's accomplishment and funding data, including program income, for each program year. It is recommended that the state enter IDIS data on a quarterly basis and it is required to be entered annually.</p> <p>(b) Unit of general local government's record. The State shall establish recordkeeping requirements for units of general local government receiving CDBG funds that are sufficient to facilitate reviews and audits of such units of general local government under §§570.492 and 570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include documentation related to the State's AFH as described in 24 CFR part 5, subpart A (§5.168).</p>	<p>§ 7102 is not consistent with §570.490 and must be updated to incorporate the most recent Federal regulations.</p>

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	<p>(c) Access to records. (1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.</p> <p>(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.</p> <p>(d) Record retention. Records of the State and units of general local government, including supporting documentation, shall be retained for the greater of three years from closeout of the grant to the state, or the period required by other applicable laws and regulations as described in §570.487 and §570.488.</p>	
<p><b>§ 7104. Program Income.</b></p> <p>(a) “Program Income” means gross income earned by the grantee from grant-funded activities as defined in 24 CFR Section 570.489(e).</p> <p>(b) Grantees shall account for and disburse program income related to projects financed in whole or in part with grant funds pursuant to 24 CFR Section 570.489(e).</p> <p>(c) Grantees shall account for disbursement of program income annually or more frequently as required by the Department for cause.</p> <p>(d) If CDBG local program income will be used to operate a program such as: housing rehabilitation, homeownership assistance, business financial assistance and micro enterprise financial assistance, the applicant shall submit program guidelines to the Department for approval. No CDBG grant funds or local program income shall be expended to operate a program until the Department has approved the program guidelines in writing.</p> <p>(A) The program guidelines shall describe how the program will be operated and how it will comply with State and federal regulations. In addition, program guidelines shall address the following topics:</p> <p>1. Financing terms and interest rates;</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(e) Program income. (1) For the purposes of this subpart, “program income” is defined as gross income received by a State, a unit of general local government, or a subgrantee of the unit of general local government that was generated from the use of CDBG funds, regardless of when the CDBG funds were appropriated and whether the activity has been closed out, except as provided in paragraph (e)(2) of this section. When income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used (e.g., a single loan supported by CDBG funds and other funds; or a single parcel of land purchased with CDBG funds and other funds). Program income includes, but is not limited to, the following:</p> <p>(i) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds, except as provided in paragraph (e)(2)(v) of this section;</p> <p>(ii) Proceeds from the disposition of equipment purchased with CDBG funds;</p>	<p>State code § 7104 does not fully address §570.489(e).</p> <p>In particular, the requirements at § 7104(b) and (c) do not describe how grantees shall account for, report and disburse program income.</p>

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<p>2. Underwriting standards;</p> <p>3. Application processing procedures and timing for loan approvals;</p> <p>4. Procedures for resolving disputes between the participant and the CDBG grantee;</p> <p>5. Description of any property restrictions imposed as a condition of receiving the loan (e.g., resale controls, equity sharing);</p> <p>6. Loan servicing policies addressing the issues of: subordination; refinancing; change in occupancy, change in use, assumptions, and verification of payment of taxes and insurance.</p> <p>7. If the program will involve rehabilitation or construction, procedures for developing the scope of work, description of the contractor procurement and payment process, and a description of the conflict resolution process in the event of a dispute between the contractor and the program participant.</p>	<p>(iii) Gross income from the use or rental of real or personal property acquired by the unit of general local government or subgrantee of the unit of general local government with CDBG funds, less the costs incidental to the generation of the income;</p> <p>(iv) Gross income from the use or rental of real property, owned by the unit of general local government or other entity carrying out a CDBG activity that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;</p> <p>(v) Payments of principal and interest on loans made using CDBG funds, except as provided in paragraph (e)(2)(iii) of this section;</p> <p>(vi) Proceeds from the sale of loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of the Act;</p> <p>(vii) Proceeds from the sale of obligations secured by loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of the Act;</p> <p>(viii) Interest earned on funds held in a revolving fund account;</p> <p>(ix) Interest earned on program income pending disposition of the income;</p> <p>(x) Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not of low and moderate income, if the special assessments are used to recover all or part of the CDBG portion of a public improvement; and</p> <p>(xi) Gross income paid to a unit of general local government or subgrantee of the unit of general local government from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.</p> <p>(2) "Program income" does not include the following:</p>	

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	<p>(i) The total amount of funds, which does not exceed \$35,000 received in a single year from activities, other than revolving loan funds that is retained by a unit of general local government and its subgrantees (all funds received from revolving loan funds are considered program income, regardless of amount);</p> <p>(ii) Amounts generated by activities eligible under section 105(a)(15) of the Act and carried out by an entity under the authority of section 105(a)(15) of the Act;</p> <p>(iii) Payments of principal and interest made by a subgrantee carrying out a CDBG activity for a unit of general local government, toward a loan from the local government to the subgrantee, to the extent that program income received by the subgrantee is used for such payments;</p> <p>(iv) The following classes of interest, which must be remitted to HUD for transmittal to the Department of the Treasury, and will not be reallocated under section 106(c) or (d) of the Act:</p> <p>(A) Interest income from loans or other forms of assistance provided with CDBG funds that are used for activities determined by HUD to be not eligible under §570.482 or section 105(a) of the Act, to fail to meet a national objective in accordance with the requirements of §570.483, or to fail substantially to meet any other requirement of this subpart or the Act;</p> <p>(B) Interest income from deposits of amounts reimbursed to a State's CDBG program account prior to the state's disbursement of the reimbursed funds for eligible purposes; and</p> <p>(C) Interest income received by units of general local government on deposits of grant funds before disbursement of the funds for activities, except that the unit of general local government may keep interest payments of up to \$100 per year for administrative expenses otherwise permitted to be paid with CDBG funds.</p>	

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	<p>(v) Proceeds from the sale of real property purchased or improved with CDBG funds, if the proceeds are received more than 5 years after expiration of the grant agreement between the State and the unit of general local government.</p> <p>(3) The State may permit the unit of general local government which receives or will receive program income to retain it, subject to the requirements of paragraph (e)(3)(ii) of this section, or may require the unit of general local government to pay the program income to the State. The State, however, must permit the unit of general local government to retain the program income if it will be used to continue the activity from which it was derived. The State will determine when an activity is being continued.</p> <p>(i) Program income paid to the State. Except as described in paragraph (e)(3)(ii)(A) of this section, the State may require the unit of general local government that receives or will receive program income to return the program income to the State. Program income that is paid to the State is treated as additional CDBG funds subject to the requirements of this subpart. Except for program income retained and used by the State for administrative costs or technical assistance under paragraph (a) of this section, program income paid to the State must be distributed to units of general local government in accordance with the method of distribution in the action plan under 24 CFR 91.320(k)(1)(i) that is in effect at the time the program income is distributed. To the maximum extent feasible, the State must distribute program income before it makes additional withdrawals from the United States Treasury, except as provided in paragraph (f) of this section.</p> <p>(ii) Program income retained by a unit of general local government. A State may permit a unit of general local government that receives or will receive program income to retain it. Alternatively, a State may require that the unit of general local government pay any such income to the State unless the exception in paragraph (e)(3)(ii)(A) of this section applies.</p> <p>(A) A State must permit the unit of general local government to retain the program income if the program income will be used to continue the activity from which it was derived. A State will determine when an activity is being continued. In making such a determination, a State may consider whether the</p>	<p>State code does not specify the conditions under which program income must be returned to the State for disbursement to other units of general local government, as provided at §570.489(e)(3)(ii)(A). This concept is applicable to situations where the grantee is not likely to apply any significant amount of program income to continue existing activities within a reasonable amount of time. Lack of clear State rules and procedures in this area may be a contributing factor to the State's</p>

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	<p>unit of general local government is or will be unable to comply with the requirements of paragraph (e)(3)(ii)(B) of this section or other requirements of this part, and the extent to which the program income is unlikely to be applied to continue the activity within the reasonably near future. When a State determines that the program income will be applied to continue the activity from which it was derived, but the amount of program income held by the unit of general local government exceeds projected cash needs for the reasonably near future, the State may require the local government to return all or part of the program income to the State until such time as it is needed by the unit of general local government. When a State determines that a unit of local government is not likely to apply any significant amount of program income to continue the activity within a reasonable amount of time, or that it is not likely to apply the program income in accordance with applicable requirements, the State may require the unit of general local government to return all of the program income to the State for disbursement to other units of local government. A State that intends to require units of general local government to return program income in accordance with this paragraph must describe its approach in the State's action plan required under 24 CFR 91.320 of this title or in a substantial amendment if the State intends to implement this option after the action plan is submitted to and approved by HUD.</p> <p>(B) Program income that is received and retained by the unit of general local government is treated as additional CDBG funds and is subject to all applicable requirements of this subpart, regardless of whether the activity that generated the program income has been closed out. If the grant between the State and the unit of general local government that generated the program income is still open when it is generated, program income permitted to be retained will be considered part of the unit of general local government's grant that generated the program income. If the grant between the State and the unit of general local government is closed out, program income permitted to be retained will be considered to be part of the unit of general local government's most recently awarded open grant. If the unit of general local government has no open grants with the State, the program income retained by the unit of general local government will be counted as part of the State's program year in which the program income was received. A State must employ one or more of the following methods to</p>	challenges with timely expenditure of grant funds.



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	<p>ensure that units of general local government comply with applicable program income requirements:</p> <p>(1) Maintaining contractual relationships with units of general local government for the duration of the existence of the program income;</p> <p>(2) Closing out the underlying activity, but requiring as a condition of closeout that the unit of general local government obtain advance State approval of either a unit of general local government's plan for the use of program income or of each use of program income by grant recipients via regularly occurring reports and requests for approval;</p> <p>(3) Closing out the underlying activity, but requiring as a condition of closeout that the unit of general local government report to the State when new program income is received; or</p> <p>(4) With prior HUD approval, other approaches that demonstrate that the State will ensure compliance with the requirements of this subpart by units of general local government.</p> <p>(iii) Transfer of program income to Entitlement program. A unit of general local government that becomes eligible to be an Entitlement grantee may request the State's approval to transfer State CDBG grant-generated program income to the unit of general local government's Entitlement program. A State may approve the transfer, provided that the unit of general local government:</p> <p>(A) Has officially elected to participate in the Entitlement grant program;</p> <p>(B) Agrees to use such program income in accordance with Entitlement program requirements; and</p> <p>(C) Has set up Integrated Disbursement Information System (IDIS) access and agrees to enter receipt of program income into IDIS.</p> <p>(iv) Transfer of program income of grantees losing Entitlement status. Upon entry into the State CDBG program, a unit of general local government that</p>	

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	<p>has lost or relinquished its Entitlement status must, with respect to program income that a unit of general local government would otherwise be permitted to retain, either:</p> <p>(A) Retain program income generated under Entitlement grants and continue to comply with Entitlement program requirements for program income; or</p> <p>(B) Retain the program income and transfer it to the State CDBG program, in which case the unit of general local government must comply with the State's rules for program income and the requirements of this paragraph (e).</p> <p>(4) The State must report on the receipt and use of all program income (whether retained by units of general local government or paid to the State) in its annual performance and evaluation report.</p>	
<p><b>§ 7106. Standards for Grantee Financial Management Systems.</b></p> <p>Grantees shall establish and maintain their financial management systems for CDBG grants in accordance with 24 CFR 85.20 et. seq.</p>	<p><b>§570.489 Program Administrative Requirements</b></p> <p>(d) Fiscal controls and accounting procedures. (1) A State shall have fiscal and administrative requirements for expending and accounting for all funds received under this subpart. These requirements must be available for Federal inspection and must:</p> <p>(i) Be sufficiently specific to ensure that funds received under this subpart are used in compliance with all applicable statutory and regulatory provisions and the terms and conditions of the award:</p> <p>(ii) Ensure that funds received under this subpart are only spent for reasonable and necessary costs of operating programs under this subpart; and</p> <p>(iii) Ensure that funds received under this subpart are not used for general expenses required to carry out other responsibilities of State and local governments.</p> <p>(2) A State may satisfy this requirement by:</p>	<p>§ 7106 should be updated to reference 2 CFR Part 200, Subpart D.</p>

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	<p>(i) Using fiscal and administrative requirements applicable to the use of its own funds;</p> <p>(ii) Adopting new fiscal and administrative requirements; or</p> <p>(iii) Applying the provisions in 2 CFR part 200.</p> <p>(A) A State that opts to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200 must comply with the requirements therein.</p> <p>(B) A State that opts to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200 must also ensure that recipients of the State's CDBG funds comply with 2 CFR part 200.</p> <p><b>§570.489 Program administrative requirements.</b></p> <p>(p) Cost principles and prior approval. A State must ensure that costs incurred by the State and by its recipients are in conformance with 2 CFR part 200, subpart E. All cost items described in 2 CFR part 200, subpart E, that require Federal agency approval are allowable without prior approval of HUD, to the extent that they otherwise comply with the requirements of 2 CFR part 200, subpart E, and are otherwise eligible, except for the following:</p> <p>(1) Depreciation methods for fixed assets shall not be changed without the express approval of the cognizant Federal agency (2 CFR 200.436).</p> <p>(2) Fines, penalties, damages, and other settlements are unallowable costs to the CDBG program (2 CFR 200.441).</p> <p>(3) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445).</p> <p>(4) Organization costs (2 CFR 200.455).</p>	<p>If State code incorporates the requirements of 2 CFR Part 200, HUD will require the State to monitor its grantees for compliance.</p>

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<p><b>§ 7108. Financial Reporting Requirements.</b></p> <p>Grantees shall report at least annually on financial matters as required by 24 CFR 85.41.</p>	<p>[<i>Outdated Federal regulations.</i>]</p>	<p>If the State elects to retain this requirement in its CDBG Program Guidelines, § 7108 should be updated to reference 2 CFR 200.327.</p>
<p><b>§ 7110. Monitoring and Reporting of Program Performance.</b></p> <p>(a) Grantees shall monitor the performance of grant-supported activities to assure that time schedules are being met and the milestones in the work schedule are being accomplished. This review shall be made for each activity in the approved grant agreement.</p> <p>(b) Each grantee shall prepare annual and periodic performance reports. Except as provided for in subdivision (d) below, performance reports shall not be required more frequently than quarterly unless warranted by special circumstances.</p> <p>(c) The performance report for each activity shall describe the following:</p> <p>(1) A description of actual accomplishments compared to the objectives established for the reporting period. In addition, where the results of activities can be quantified, unit costs shall be reported.</p> <p>(2) Reasons why established objectives were not met.</p> <p>(3) Other information such as a specific explanation of cost overruns or high unit costs.</p> <p>(d) Between the required performance reporting dates, events may occur which have an impact upon the activity or program. In such cases, the grantee shall inform the Department in writing as soon as the following occur:</p> <p>(1) Problems, delays, or adverse conditions which will affect the grantee's ability to attain program objectives, prevent the meeting of time schedules or goals, or preclude the attainment of work units by the established time period. This reporting shall be accompanied by a statement of the action taken or contemplated, and any assistance needed, to resolve the situation.</p> <p>(2) Completion of each milestone in the work schedule.</p> <p>(e) If a performance review conducted by a grantee discloses the need for change in the budget estimates in accordance with the criteria established in Section 7114, the grantee shall submit a request for budget revision pursuant to that section.</p> <p>(f) The Department will make site visits to review program accomplishments and management control systems, and to or provide program assistance.</p>	<p><b>§570.492 State's reviews and audits.</b></p> <p>(a) The state shall make reviews and audits including on-site reviews, of units of general local government as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the Act.</p> <p>(b) In the case of noncompliance with these requirements, the State shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences and prevent a recurrence. The state shall establish remedies for units of general local government noncompliance.</p> <p><b>§570.489 Program administrative requirements.</b></p> <p>(m) Subrecipient monitoring and management. The provisions of 2 CFR 200.330 through 200.332 are applicable.</p>	<p>§7110(g) of State code is consistent with §570.492 and §570.489(m).</p>

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<p>(g) The Department will review each grantee's performance to determine whether:</p> <p>(1) the grantee has carried out the program as described in its application;</p> <p>(2) the program complies with this subchapter and other applicable laws and regulations; and</p> <p>(3) the grantee has the continuing capacity to complete the approved program according to time schedules approved by the Department.</p> <p>If performance is found not to be in conformance with the grant application, agreement, or approved amendments, the Department may require corrective or remedial actions, or may recall or disencumber grant funds.</p>		
<p><b>§ 7112. Grant Payment Requirements.</b></p> <p>(a) Grant payment methods shall minimize the time elapsing between the disbursement by a grantee and the transfer of funds from the State to the grantee, whether such disbursement occurs prior to or subsequent to the transfer of funds.</p> <p>(b) Grant payments are made to grantees by an advance or a reimbursement. An advance is a payment made by the State to a grantee upon its request before cash outlays are made by the grantee, subject to limitations provided in the grant agreement, and based on the type of grantee program. A reimbursement is a payment made to a grantee upon request for payment of costs already paid by grantee.</p> <p>(c) Unless otherwise provided by regulation, the State shall not withhold payments for allowable charges made by grantees at any time during the grant period unless (1) a grantee has failed to comply with the grant agreement, or (2) the grantee is indebted to the State and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the Department. Under such conditions, the Department may, upon 15 days notice, inform the grantee that payments will not be made for obligations incurred after a specified date until the noncompliance is resolved or the indebtedness to the State is liquidated.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(c) Federal grant payments. The State's requests for payment, and the Federal Government's payments upon such requests, must comply with 31 CFR part 205. The State must use procedures to minimize the time elapsing between the transfer of grant funds and disbursement of funds by the State to units of general local government. States must also have procedures in place, and units of general local government must use these procedures to minimize the time elapsing between the transfer of funds by the State and disbursement for CDBG activities.</p>	<p>§ 7112 is consistent with §570.489(c).</p>
<p><b>§ 7114. Revision Procedures.</b></p>	<p>[§ 7114 is State code requirement based on outdated Federal regulations.]</p>	<p>§ 7114 is adapted from 24 CFR 85.30, now 2 CFR §200.308.</p>

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<p>(a) “Cost categories,” as used in this section, means any of the following: personal services, operating expenses, capital outlays, loans, grants or indirect costs.</p> <p>(b) “Grant budget,” as used in this section, means the approved financial plan to carry out the purpose of the grant program, or activity. It should be related to performance for program evaluation purposes.</p> <p>(c) The grantee may not amend the program or activity in a manner which is inconsistent with the original basis for the award without the Department's written approval of the change. In addition, grantees shall request prior written approval from the Department when a program or budget revision will be necessary for the following reasons:</p> <p>(1) Changes are to be made in the scope or the objective of the program or activity.</p> <p>(2) Additional funding is needed.</p> <p>(3) Amounts budgeted for indirect costs must be reallocated to absorb increases in direct costs.</p> <p>(4) The need for transfers of funds among cost categories or activities when the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the activity budget. The same criteria shall apply to the cumulative amount of transfers among programs or activities when budgeted separately for an award, except that no transfer is permitted that would cause any grant appropriation, or part thereof, to be used for purposes other than those intended in the grant program; or</p> <p>(5) When the Department awards a grant which provides support for both construction and nonconstruction work to make any Fund or budget transfers between the two types of work supported.</p> <p>(d) Grantees shall notify the Department whenever the amount of authorized funds is expected to exceed the needs of the grantee by more than ten thousand dollars (\$10,000).</p> <p>(e) Within 30 days from the date of receipt of the request for grant budget and program revisions, the Department shall review the request and notify the grantee whether or not the revisions have been approved. If the revision is still under consideration at the end of 30 days, the Department shall inform the grantee in writing as to when the grantee may expect the decision.</p>		

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<p><b>§ 7116. Grant Closeout Procedures.</b></p> <p>(a) The following definitions shall apply for the purpose of this section.</p> <p>(1) “Grant closeout” is the process by which the Department determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the State.</p> <p>(2) “Date of completion” is the date when all work under a grant is completed, or the date in the grant agreement, or any supplement or amendment thereto on which funding ends.</p> <p>(3) “Termination of a grant” means the cancellation of funding, in whole or in part, at any time prior to the date of completion.</p> <p>(4) “Suspension of a grant” is an action by the Department which temporarily suspends funding under the grant pending either corrective action by the grantee or a decision by the Department to terminate the grant.</p> <p>(5) “Disallowed costs” are those charges to a grant which the Department determines to be unallowable.</p> <p>(b) The grant closeout procedures include the following:</p> <p>(1) Upon request, the Department shall make payments to a grantee for allowable reimbursable costs under the grant being closed out.</p> <p>(2) The grantee shall refund to the Department any balance of unobligated cash advanced to the grantee that is not authorized to be retained by the grantee.</p> <p>(3) Within 90 days after the date of completion of the grant the grantee shall provide the Department with all financial, performance, and other reports required as a condition of the grant. The Department may grant time extensions for cause when requested by the grantee.</p> <p>(4) When authorized by the grant agreement, the Department may make a settlement for any upward or downward adjustments to the State share of costs after the reports are received.</p> <p>(5) The grantee shall account for any property acquired in whole or in part with grant funds, in accordance with the provisions of Section 7118, pertaining to property management and Section 7104, pertaining to program income.</p> <p>(6) In the event a final audit has not been performed prior to the closeout of the grant, the Department shall retain the right to recover the amount of disallowed costs after fully considering the recommendations of the final audit.</p> <p>(c) The Department shall provide procedures to be followed when a grantee fails to comply with the agreement. When that occurs, the Department may, after notifying the grantee in writing, suspend the grant and withhold further</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(i) Closeout of grants to units of general local government. The State shall establish requirements for timely closeout of grants to units of general local government and shall take action to ensure the timely closeout of such grants.</p> <p><b>§570.489 Program administrative requirements.</b></p> <p>(o) Grant Closeout.—HUD will close grants to States in accordance with the grant closeout requirements of 2 CFR 200.343.</p>	<p>The State has established requirements for timely closeout of grants to units of general local government.</p> <p>§ 7116 Grant Closeout Procedures should be updated to incorporate and reference the Uniform Administrative Requirements of 2 CFR Part 200.</p>

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<p>payments, or prohibit the grantee from incurring additional obligations of grant funds, pending corrective action by the grantee or a decision to terminate in accordance with subdivision (d). The Department shall allow costs which the grantee could not avoid during the period of suspension provided that the costs meet the provisions of the U.S. Office of Management and Budget (OMB) Circular A-87.</p> <p>(d) Grants may be terminated as follows:</p> <p>(1) Termination for cause. The Department may terminate any grant, in whole or in part, at any time before the date of completion whenever the Department determines that the grantee has failed to comply with the conditions of the grant agreement. The Department shall promptly notify the grantee in writing of the determination, the reasons for the termination, and the effective date. Payments made to grantees or recoveries by the Department under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties.</p> <p>(2) Termination for convenience. The Department or the grantee may terminate a grant, in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, and the portion of the grant to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date of the termination, and shall cancel as many outstanding obligations as possible. The Department will fund all eligible obligations that the grantee cannot cancel.</p>		
<p><b>§ 7118. Property Management Standards.</b></p> <p>Grantees shall adhere to the property management standards described in 24 CFR 85.30 et. seq.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(j) Change of use of real property. The standards described in this section apply to real property within the unit of general local government's control (including activities undertaken by subrecipients) which was acquired or improved in whole or in part using CDBG funds in excess of the threshold for small purchase procurement (2 CFR 200.88). These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of the unit of general local government's grant.</p> <p>(1) A unit of general local governments may not change the use or planned use of any such property (including the beneficiaries of such use) from that</p>	<p>§ 7118 should be updated to reference 2 CFR §200.310 - §200.316 and also to incorporate the requirements of §570.489(j).</p>



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	<p>for which the acquisition or improvement was made, unless the unit of general local government provides affected citizens with reasonable notice of and opportunity to comment on any proposed change, and either:</p> <p>(i) The new use of the property qualifies as meeting one of the national objectives and is not a building for the general conduct of government; or</p> <p>(ii) The requirements in paragraph (j)(2) of this section are met.</p> <p>(2) If the unit of general local government determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (j)(1) of this section, it may retain or dispose of the property for the changed use if the unit of general local government's CDBG program is reimbursed or the State's CDBG program is reimbursed, at the discretion of the State. The reimbursement shall be in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property, except that if the change in use occurs after grant closeout but within 5 years of such closeout, the unit of general local government shall make the reimbursement to the State's CDBG program account.</p> <p>(3) Following the reimbursement of the CDBG program in accordance with paragraph (j)(2) of this section, the property no longer will be subject to any CDBG requirements.</p> <p>(k) Accountability for real and personal property. The State shall establish and implement requirements, consistent with State law and the purposes and requirements of this subpart (including paragraph (j) of this section) governing the use, management, and disposition of real and personal property acquired with CDBG funds.</p>	
<p><b>§ 7120. Procurement Standards.</b></p> <p>Grantees shall adhere to the requirements of 24 CFR 85.36.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(g) Procurement. When procuring property or services to be paid for in whole or in part with CDBG funds, the State shall follow its procurement policies and procedures. The State shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed</p>	<p>State code incorporated the Entitlement requirement to follow local procurement procedures provided that they conform to the Uniform Administrative Requirements.</p>

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	bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the State. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by §570.489(h).) The State shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, Executive orders, and implementing regulations. The State shall make subrecipient and contractor determinations in accordance with the standards in 2 CFR 200.330.	Update § 7120 to refer to 2 CFR 200.318-326 or exercise the option pursuant to §570.489 to specify State procurement requirements to be followed.  §570.489 provides the State with more latitude to specify its own procurement requirements provided that the cost plus a percentage of construction costs methods of contracting are not used and rules concerning conflict of interest are observed.
<p><b>§ 7122. Audit Requirements.</b></p> <p>Grantees shall arrange for independent audits on all CDBG grants consistent with OMB Circular A-128.</p>	The audit requirements of §200.500 - §200.512 are applicable to the State and its grantees.	§ 7122 should be updated to reference 2 CFR §200.500 - §200.512.
<p><b>§ 7124. Lump Sum Drawdown for Property Rehabilitation Financing.</b></p> <p>Subject to the conditions prescribed in this section, grantees may draw funds from the Department in a single lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately-owned properties as a part of the grantee's program. The conditions prescribed for lump sum drawdown accounts are described in 24 CFR 570, Section 570.513.</p>	[State code incorporates Entitlement regulations from 24 CFR 570.513]	This is a reasonable approach based on §570.480(c) and 2 CFR 200.305.
<p><b>§ 7126. Conflict of Interest.</b></p> <p>Grantees shall enforce standards for conflicts of interest which govern the performance of their officers, employees, or agents engaged in the award and administration of State CDBG grant funds. The standards for conflicts of interest shall prohibit any conflict of interest as defined in Title 24 Code of Federal Regulations Part 570.611 (as revised on 10-14-83) which is hereby incorporated by reference. The Department shall use the criteria and standards set forth in Title 24 CFR 570.611 in evaluating questions concerning potential conflicts of interest.</p>	<p><b>§570.489 Program administrative requirements.</b></p> <p>(h) Conflict of interest—(1) Applicability. (i) In the procurement of supplies, equipment, construction, and services by the States, units of local general governments, and subrecipients, the conflict of interest provisions in paragraph (g) of this section shall apply.</p> <p>(ii) In all cases not governed by paragraph (g) of this section, this paragraph (h) shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance with CDBG funds by the unit of general local government or its subrecipients, to individuals, businesses and other private entities.</p>	§ 7126 should be updated to reference §570.489(h).

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	<p>(2) Conflicts prohibited. Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (h)(3) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.</p> <p>(3) Persons covered. The conflict of interest provisions for paragraph (h)(2) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the State, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving CDBG funds.</p> <p>(4) Exceptions: Thresholds requirements. Upon written request by the State, an exception to the provisions of paragraph (h)(2) of this section involving an employee, agent, consultant, officer, or elected official or appointed official of the State may be granted by HUD on a case-by-case basis. In all other cases, the State may grant such an exception upon written request of the unit of general local government provided the State shall fully document its determination in compliance with all requirements of paragraph (h)(4) of this section including the State's position with respect to each factor at paragraph (h)(5) of this section and such documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the State or unit of general local government as appropriate. An exception may be considered only after the State or unit of general local government, as appropriate, has provided the following:</p> <p>(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and</p>	

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	<p>(ii) An opinion of the attorney for the State or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate State or local law.</p> <p>(5) Factors to be considered for exceptions. In determining whether to grant a requested exception after the requirements of paragraph (h)(4) of this section have been satisfactorily met, the cumulative effect of the following factors, where applicable, shall be considered:</p> <p>(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;</p> <p>(ii) Whether an opportunity was provided for open competitive bidding or negotiation;</p> <p>(iii) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;</p> <p>(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;</p> <p>(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(3) of this section;</p> <p>(vi) Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and</p> <p>(vii) Any other relevant considerations.</p>	

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	<p><b>§570.480 General.</b></p> <p>(c) In exercising the Secretary's obligation and responsibility to review a state's performance, the Secretary will give maximum feasible deference to the state's interpretation of the statutory requirements and the requirements of this regulation, provided that these interpretations are not plainly inconsistent with the Act and the Secretary's obligation to enforce compliance with the intent of the Congress as declared in the Act. The Secretary will not determine that a state has failed to carry out its certifications in compliance with requirements of the Act (and this regulation) unless the Secretary finds that procedures and requirements adopted by the state are insufficient to afford reasonable assurance that activities undertaken by units of general local government were not plainly inappropriate to meeting the primary objectives of the Act, this regulation, and the state's community development objectives.</p> <p>(d) Administrative action taken by the Secretary that is not explicitly and fully part of this regulation shall only apply to a specific case or issue at a specific time, and shall not be generally applicable to the state-administered CDBG program.</p>	<p>§570.480(c) stipulates that the State has latitude to interpret the statutory and regulatory requirements, provided such interpretation is not plainly inconsistent with the Act or regulations. It is not necessary to specifically address §570.480(c) in §7050-7126.</p>
	<p><b>§570.487 Other applicable laws and related program requirements.</b></p> <p>(b) Affirmatively furthering fair housing. The Act requires the State to certify to the satisfaction of HUD that it will affirmatively further fair housing. The Act also requires each unit of general local government to certify that it will affirmatively further fair housing. The certification that the State will affirmatively further fair housing shall specifically require the State to assume the responsibility of fair housing planning by:</p> <p>(1) Taking meaningful actions to further the goals identified in an AFH conducted in accordance with the requirements of 24 CFR5.150 through 5.180;</p> <p>(2) Taking no action that is materially inconsistent with its obligation to affirmatively further fair housing; and</p> <p>(3) Assuring that units of local government funded by the State comply with their certifications to affirmatively further fair housing.</p> <p>(d) States shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135. Section 3 requires that employment and other economic opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be given to low- and very low-income persons.</p>	<p>The duty to affirmatively further fair housing is not addressed in §7050-7126.</p> <p>The requirement to comply with 24 CFR Part 135 is not addressed in §7050-7126.</p>
	<p><b>§570.491 Performance and evaluation report.</b></p> <p>The annual performance and evaluation report shall be submitted in accordance with 24 CFR part 91.</p>	<p>The requirement for the Department to submit a CAPER to HUD is not addressed in §7050-7126.</p>

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	<p><b>§570.493 HUD's reviews and audits.</b></p> <p>(a) General. At least on an annual basis, HUD shall make such reviews and audits as may be necessary or appropriate to determine:</p> <p>(1) Whether the state has distributed CDBG funds to units of general local government in a timely manner in conformance to the method of distribution described in its action plan under part 91 of this title;</p> <p>(2) Whether the state has carried out its certifications in compliance with the requirements of the Act and this subpart and other applicable laws; and</p> <p>(3) Whether the state has made reviews and audits of the units of general local government required by §570.492.</p> <p>(b) Information considered. In conducting performance reviews and audits, HUD will rely primarily on information obtained from the state's performance report, records maintained by the state, findings from on-site monitoring, audit reports, and the status of the state's unexpended grant funds. HUD may also consider relevant information on the state's performance gained from other sources, including litigation, citizens' comments, and other information provided by the state. A State's failure to maintain records in accordance with §570.490 may result in a finding that the State has failed to meet the applicable requirement to which the record pertains.</p>	<p>§570.493 addresses HUD's responsibilities pursuant to the Act to review and audit State performance. In the context of the State code, it is not necessary to address HUD's review and audit procedure in §7050-7126.</p>
	<p><b>§570.494 Timely distribution of funds by states.</b></p> <p>(a) States are encouraged to adopt and achieve a goal of obligating and announcing 95 percent of funds to units of general local government within 12 months of the state signing its grant agreement with HUD.</p> <p>(b) HUD will review each state to determine if the state has distributed CDBG funds in a timely manner. The state's distribution of CDBG funds is timely if:</p> <p>(1) All of the state's annual grant (excluding state administration) has been obligated and announced to units of general local government within 15 months of the state signing its grant agreement with HUD; and</p> <p>(2) Recaptured funds and program income received by the state are expeditiously obligated and announced to units of general local government.</p> <p>(c) HUD may collect necessary information from states to determine whether CDBG funds have been distributed in a timely manner.</p>	<p>Although not explicitly incorporated into §7050-7126, it can be reasonably concluded that the annual NOFA process and the OTC process are designed to achieve compliance with §570.494(b)(1).</p>

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	<p><b>§570.495 Reviews and audits response.</b></p> <p>(a) If HUD's review and audit under §570.493 results in a negative determination, or if HUD otherwise determines that a state or unit of general local government has failed to comply with any requirement of this subpart, the state will be given an opportunity to contest the finding and will be requested to submit a plan for corrective action. If the state is unsuccessful in contesting the validity of the finding to the satisfaction of HUD, or if the state's plan for corrective action is not satisfactory to HUD, HUD may take one or more of the following actions to prevent a continuation of the deficiency; mitigate, to the extent possible, the adverse effects or consequence of the deficiency; or prevent a recurrence of the deficiency:</p> <p>(1) Issue a letter of warning that advises the State of the deficiency and puts the state on notice that additional action will be taken if the deficiency is not corrected or is repeated;</p> <p>(2) Advise the state that additional information or assurances will be required before acceptance of one or more of the certifications required for the succeeding year grant;</p> <p>(3) Advise the state to suspend or terminate disbursement of funds for a deficient activity or grant;</p> <p>(4) Advise the state to reimburse its grant in any amounts improperly expended;</p> <p>(5) Change the method of payment to the state from an advance basis to a reimbursement basis;</p> <p>(6) Based on the state's current failure to comply with a requirement of this subpart which will affect the use of the succeeding year grant, condition the use of the succeeding fiscal years grant funds upon appropriate corrective action by the state. When the use of funds is conditioned, HUD shall specify the reasons for the conditions and the actions necessary to satisfy the conditions.</p> <p>(b)(1) Whenever HUD determines that a state or unit of general local government which is a recipient of CDBG funds has failed to comply with section 109 of the Act (nondiscrimination requirements), HUD shall notify the governor of the State or chief executive officer of the unit of general local government of the noncompliance and shall request the governor or the chief executive officer to secure compliance. If within a reasonable time, not to exceed sixty days, the governor or chief executive officer fails or refuses to secure compliance, HUD may take the following action:</p> <p>(i) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;</p> <p>(ii) Exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-7);</p> <p>(iii) Exercise the powers and functions provided for in §570.496; or</p>	<p>§570.495 addresses HUD’s responsibilities pursuant to the Act to review and audit State performance and to implement corrective actions. In the context of the State code, it is not necessary to address HUD’s review and audit response procedure in §7050-7126.</p>

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	<p>(iv) Take such other action as may be provided by law.</p> <p>(2) When a matter is referred to the Attorney General pursuant to paragraph (b)(1)(i) of this section, or whenever HUD has reason to believe that a State or unit of general local government is engaged in a pattern or practice in violation of the provisions of section 109 of the Act, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.</p>	
	<p><b>§570.496 Remedies for noncompliance; opportunity for hearing.</b></p> <p>(a) General. Action pursuant to this section will be taken only after at least one of the corrective or remedial actions specified in §570.495 has been taken, and only then if the State or unit of general local government has not made an appropriate or timely response.</p> <p>(b) Remedies. (1) If HUD finds after reasonable notice and opportunity for hearing that a State or unit of general local government has failed to comply with any provision of this subpart, until HUD is satisfied that there is no longer failure to comply, HUD shall:</p> <p>(i) Terminate payments to the state;</p> <p>(ii) Reduce payments for current or future grants to the state by an amount equal to the amount of CDBG funds distributed or used without compliance with the requirements of this subpart;</p> <p>(iii) Limit the availability of payments to the state to activities not affected by the failure to comply or to activities designed to overcome the failure to comply;</p> <p>(iv) Based on the state's failure to comply with a requirement of this subpart (other than the state's current failure to comply which will affect the use of the succeeding year grant), condition the use of the grant funds upon appropriate corrective action by the state specified by HUD; or</p> <p>(v) With respect to a CDBG grant awarded by the state to a unit of general local government, withhold, reduce, or withdraw the grant, require the state to withhold, reduce, or withdraw the grant, or take other action as appropriate, except that CDBG funds expended on eligible activities shall not be recaptured or deducted from future CDBG grants to such unit of general local government.</p> <p>(2) HUD may on due notice suspend payments at any time after the issuance of a notice of opportunity for hearing pursuant to paragraph (d) of this section, pending such hearing and a final decision, to the extent HUD determines such action necessary to prevent a continuation of the noncompliance.</p>	<p>§570.496 addresses HUD’s remedies for noncompliance on the part of the State. In the context of the State code, it is not necessary to address HUD’s review and audit response procedure in §7050-7126.</p>



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	<p>(c) In lieu of, or in addition to, the action authorized by paragraph (b) of this section, if HUD has reason to believe that the state or unit of general local government has failed to comply substantially with any provision of this subpart, HUD may:</p> <p>(1) Refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; and</p> <p>(2) Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the CDBG funds which was not expended in accordance with this subpart, or for mandatory or injunctive relief.</p> <p>(d) Proceedings. When HUD proposes to take action pursuant to this section, the respondent in the proceedings will be the state. At the option of HUD, a unit of general local government may also be a respondent. These procedures are to be followed before imposition of a sanction described in paragraph (b)(1) of this section:</p> <p>(1) Notice of opportunity for hearing. HUD shall notify the respondent in writing of the proposed action and of the opportunity for a hearing. The notice shall be sent to the respondent by first class mail and shall provide notice:</p> <p>(i) In a manner which is adequate to allow the respondent to prepare its response, the basis upon which HUD determined that the respondent failed to comply with a provision of this subpart;</p> <p>(ii) That the hearing procedures are governed by these rules;</p> <p>(iii) That the respondent has 14 days from receipt of the notice within which to provide a written request for a hearing to the Docket Clerk, Office of Administrative Law Judges, and the address and telephone number of the Docket Clerk;</p> <p>(iv) Of the action which HUD proposes to take and that the authority for this action is §570.496 of this subpart;</p> <p>(v) That if the respondent fails to request a hearing within the time specified, HUD's determination that the respondent failed to comply with a provision of this subpart shall be final and HUD may proceed to take the proposed action.</p> <p>(2) Initiation of hearing. The respondent shall be allowed 14 days from receipt of the notice within which to notify HUD in writing of its request for a hearing. If no request is received within the time specified, HUD's determination that the respondent failed to comply with a provision of this subpart shall be final and HUD may proceed to take the proposed action.</p> <p>(3) Administrative Law Judge. Proceedings conducted under these rules shall be presided over by an Administrative Law Judge (ALJ), appointed as provided by section 11 of the Administrative Procedure Act (5 U.S.C. 3105). The case shall be referred to the ALJ by HUD at the time a hearing is requested. The ALJ shall promptly notify the parties of the time and place at which the hearing will be held.</p>	

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	<p>The ALJ shall conduct a fair and impartial hearing and take all action necessary to avoid delay in the disposition of proceedings and to maintain order. The ALJ shall have all powers necessary to those ends, including but not limited to the power:</p> <ul style="list-style-type: none"> <li>(i) To administer oaths and affirmations;</li> <li>(ii) To issue subpoenas as authorized by law;</li> <li>(iii) To rule upon offers of proof and receive relevant evidence;</li> <li>(iv) To order or limit discovery before the hearing as the interests of justice may require;</li> <li>(v) To regulate the course of the hearing and the conduct of the parties and their counsel;</li> <li>(vi) To hold conferences for the settlement or simplification of the issues by consent of the parties;</li> <li>(vii) To consider and rule upon all procedural and other motions appropriate in adjudicative proceedings; and</li> <li>(viii) To make and file initial determinations.</li> </ul> <p>(4) Ex parte communications. An ex parte communication is any communication with an ALJ, direct or indirect, oral or written, concerning the merits or procedures of any pending proceeding which is made by a party in the absence of any other party. Ex parte communications are prohibited except where the purpose and content of the communication have been disclosed in advance or simultaneously to all parties, or the communication is a request for information concerning the status of the case. Any ALJ who receives an ex parte communication which the ALJ knows or has reason to believe is unauthorized shall promptly place the communication, or its substance, in all files and shall furnish copies to all parties. Unauthorized ex parte communications shall not be taken into consideration in deciding any matter in issue.</p> <p>(5) The hearing. All parties shall have the right to be represented at the hearing by counsel. The ALJ shall conduct the proceedings in an expeditious manner while allowing the parties to present all oral and written evidence which tends to support their respective positions, but the ALJ shall exclude irrelevant, immaterial or unduly repetitious evidence. HUD has the burden of proof in showing by a preponderance of evidence that the respondent failed to comply with a provision of this subpart. Each party shall be allowed to cross-examine adverse witnesses and to rebut and comment upon evidence presented by the other party. Hearings shall be open to the public. So far as the orderly conduct of the hearing permits, interested persons other than the parties may appear and participate in the hearing.</p>	

Sections of Part 570, Subpart I Not Specifically Addressed in State code

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	<p>(6) Transcripts. Hearings shall be recorded and transcribed only by a reporter under the supervision of the ALJ. The original transcript shall be a part of the record and shall constitute the sole official transcript. Respondents and the public, at their own expense, shall obtain copies of the transcript.</p> <p>(7) The ALJ's decisions. At the conclusion of the hearing, the ALJ shall give the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor. Generally, within 60 days after the conclusion of the hearing, the ALJ shall prepare a written decision which includes a Statement of findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law or discretion presented on the record and the appropriate sanction or denial thereof. The decision shall be based on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. A copy of the decision shall be furnished to the parties immediately by first class mail and shall include a notice that any requests for review by the Secretary must be made in writing to the Secretary within 30 days of the receipt of the decision.</p> <p>(8) Record. The transcript of testimony and exhibits, together with the decision of the ALJ and all papers and requests filed in the proceeding, constitutes the exclusive record for decision and, on payment of its reasonable cost, shall be made available to the parties. After reaching the initial decision, the ALJ shall certify to the complete record and forward the record to the Secretary.</p> <p>(9) Review by the Secretary. The decision by the ALJ shall constitute the final decision of HUD unless, within 30 days after the receipt of the decision, either the respondent or the Assistant Secretary for Community Planning and Development files an exception and request for review by the Secretary. The excepting party must transmit simultaneously to the Secretary and the other party the request for review and the bases of the party's exceptions to the findings of the ALJ. The other party shall be allowed 30 days from receipt of the exception to provide the Secretary and the excepting party with a written reply. The Secretary shall then review the record of the case, including the exceptions and the reply. On the basis of such review, the Secretary shall issue a written determination, including a Statement of the rationale therefor, affirming, modifying or revoking the decision of the ALJ. The Secretary's decision shall be made and transmitted to the parties within 60 days after the decision of the ALJ was furnished to the parties.</p> <p>(10) Judicial review. The respondent may seek judicial review of HUD's decision pursuant to section 111(c) of the Act.</p>	